

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

\* \* \*

PATRICIA MARTIN, INDIVIDUALLY  
AND AS ADMINISTRATRIX OF THE  
ESTATE OF DONTAE MARTIN, SR.,  
Plaintiff,

vs. CASE NO. 3:17-cv-160

JOSHUA HAAS, et al.,  
Defendants.

\* \* \*

Deposition of GUST A. TEAGUE, Defendant  
herein, called by the Plaintiff for  
cross-examination pursuant to the Rules of Civil  
Procedure, taken before me, Kathy S. Wysong, a  
Notary Public in and for the State of Ohio, at the  
Montgomery County Prosecutor's Office, 301 West  
Third Street, Dayton, Ohio, on Tuesday, November  
13, 2018, at 10:41 a.m.

\* \* \*

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4	EXHIBITS MARKED	
5	(Thereupon, Plaintiff's Exhibit 19,	
6	one colored photograph, was	
7	previously marked for purposes of	
8	identification.).....	30
9	(Thereupon, Plaintiff's Exhibit 1,	
10	incident history detail dispatch	
11	log, was previously marked for	
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14	two colored photographs, was	
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18	previously marked Plaintiff's	
19	Exhibit 14, was marked for purposes	
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2	photograph Bates stamped GB003726,	
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19	photograph Bates stamped GB003777,	
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1 (Thereupon, Plaintiff's Exhibit 51,  
2 use of force policy read and sign  
3 for Gust A. Teague, was marked for  
4 purposes of identification.)..... 131  
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15 investigation, was previously marked  
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18 CD with audio recordings, was  
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23  
24  
25

## APPEARANCES:

On behalf of the Plaintiff:

Gerhardstein & Branch

By: Jennifer L. Branch  
Attorney at Law  
Carew Tower  
441 Vine Street  
Suite 3400  
Cincinnati, Ohio 45202  
513-621-9100  
jbranch@gbfirm.com

and

Wright & Schulte, LLC

By: Robert L. Gresham  
Attorney at Law  
130 West Second Street  
Suite 1600  
Dayton, Ohio 45402  
937-222-7477  
rgresham@yourohiollegalhelp.com

On behalf of the Defendants:

By: Anne M. Jagielski  
Benjamin A. Mazer  
Assistant Prosecuting Attorneys  
301 West Third Street  
Dayton, Ohio 45422  
937-496-7195  
jagielskia@mcoho.org  
mazerb@mcoho.org

and

Marshall Dennehey Warner Coleman & Goggin

By: Jillian L. Dinehart  
Attorney at Law  
127 Public Square  
Cleveland, Ohio 44114  
216-912-3823  
jldinehart@mdwgcg.com

1 ALSO PRESENT:

2 Patricia Martin

3 \* \* \*

4 GUST A. TEAGUE

5 of lawful age, Defendant herein, having been first  
6 duly cautioned and sworn, as hereinafter  
7 certified, was examined and said as follows:

8 CROSS-EXAMINATION

9 BY MS. BRANCH:

10 Q. Good morning, Officer Teague. I'm  
11 Jennifer Branch and along with Robert Gresham we  
12 represent Patricia Martin, the mother of Dontae  
13 Martin and the estate of Dontae Martin, and I'm  
14 going to ask you questions today in your  
15 deposition. Okay?

16 A. Okay.

17 Q. Could you state your full name for  
18 the record, please?

19 A. Deputy Gust Teague.

20 Q. And how do you spell your name?

21 A. First name is G U S T. Last name  
22 Teague, T E A G U E.

23 Q. And do you have a middle name Andrew?

24 A. Yes.

25 Q. Do you go by Andy?

1 A. Yes.

2 Q. Okay. And you're currently an  
3 officer with the Montgomery County Sheriff's  
4 Department; is that right?

5 A. Yes.

6 Q. Have you ever had your deposition  
7 taken before?

8 A. No.

9 Q. So the ground rules -- I'll just give  
10 you a couple ground rules. You're going to answer  
11 questions so I'd like your answers to be out loud  
12 instead of an uh-huh or a nod of the head.

13 A. Okay.

14 Q. Is that okay? If you don't  
15 understand one of my questions, it's too long, it  
16 doesn't make sense, whatever the problem is, just  
17 let me know and I will fix it for you. Okay?

18 A. Okay.

19 Q. If you later on in the deposition  
20 realize a previous answer was incomplete or  
21 incorrect, something has jogged your memory, you'd  
22 like to go back to a line of questioning, just let  
23 me know.

24 A. Okay.

25 Q. I'm going to be asking you questions.

1 Sometimes my questions will be very short,  
2 sometimes they might be a little longer. Just let  
3 me finish getting the question out before you  
4 start the answer. Okay?

5 A. Okay.

6 Q. Because sometimes I take a pause in  
7 between words just to make sure the record is  
8 accurate. All right?

9 A. Okay.

10 Q. Is there any reason that your memory  
11 or your ability to concentrate would be impaired  
12 today?

13 A. Not that I can think of.

14 Q. Okay. On any medications that would  
15 impair your memory or ability to concentrate?

16 A. No.

17 Q. Just get off third shift and worked  
18 all night?

19 A. No.

20 Q. Okay. Have you reviewed any  
21 documents in preparation for your deposition?

22 A. Yes.

23 Q. I assume you reviewed your statement?

24 A. I have looked at it, yes.

25 Q. Did you also look at the interview



1 summaries that were done by Detective Kellar?

2 A. No.

3 Q. He interviewed you the night of the  
4 shooting, I think we're referring to it as a  
5 walkthrough. Do you recall him doing that,  
6 interviewing you the night of the shooting at the  
7 scene?

8 A. No.

9 Q. Okay. Have you looked at his  
10 investigation report which is about sixty-four  
11 pages any time recently?

12 A. No.

13 Q. He also interviewed you a few days  
14 later with your attorney present. Do you recall  
15 that interview?

16 A. I don't remember who it was that did  
17 an interview, but yes, I do remember an interview.

18 Q. All right. And was that an interview  
19 with somebody from the sheriff's department?

20 A. Yes.

21 Q. And your attorney was present?

22 A. Yes.

23 Q. And that was approximately five days  
24 after the shooting?

25 A. I don't know.

1 Q. Have you looked at the summary of  
2 that interview?

3 A. No.

4 Q. Do you remember if any of the two  
5 interviews by Detective -- by the Montgomery  
6 County Sheriff's Office of you were recorded?

7 A. I don't know if they were or not.

8 Q. Have you heard about any recordings  
9 of those interviews?

10 A. No.

11 Q. Was there anybody who witnessed your  
12 walkthrough with Detective Kellar that evening?  
13 I'm sorry, I keep saying night. I know this  
14 happened a few minutes before midnight so if I say  
15 the night of the shooting, we understand it's  
16 after midnight, that's really early morning?

17 A. Yes.

18 Q. Okay. Was anybody present when you  
19 did your walkthrough with the sheriff's office  
20 after the shooting?

21 A. With the sheriff's office or Kellar  
22 because the last time you asked me about Kellar?

23 Q. I'm being broader --

24 A. Okay.

25 Q. -- so anybody.

1           A.     There were people on scene, but I  
2 don't remember who was all right around me. I  
3 don't know if anybody followed me or anything like  
4 that.

5           Q.     Was there anybody present in your  
6 interview with someone from the sheriff's office  
7 and your attorney a few days later?

8           A.     There were people in the room. I  
9 don't remember exactly who was in there.

10          Q.     Were those people from the sheriff's  
11 office?

12          A.     Yes.

13          Q.     And was anyone else -- was there  
14 anybody that you recall by either rank or name or  
15 description of what they looked like?

16          A.     I remember Detective Kellar, my  
17 attorney, and -- if I gave you names, it would  
18 just be a total guess. I don't know exactly who  
19 it was in there.

20          Q.     And what's your guess of who also was  
21 there?

22          A.     I think Deputy -- or Detective  
23 Steele, but I'm not a hundred percent sure on  
24 that.

25          Q.     Somebody from internal

1 investigations?

2 A. I don't think they were in there.

3 Q. And Deputy Haas, was he present?

4 A. I don't believe so.

5 Q. There are two Deputy Haases we may  
6 talk about today so when I say Deputy Haas, I'll  
7 be referring to Joshua Haas --

8 A. Okay.

9 Q. -- unless I give a different first  
10 name. Okay?

11 A. Okay.

12 Q. Any other documents that you've  
13 looked at other than your written statement?

14 A. No.

15 Q. How about in the last six months, any  
16 documents related to the case that you have looked  
17 at?

18 A. Other than my statements, no.

19 Q. And when you say statements, how many  
20 statements are there?

21 A. My apologies. My statement that's  
22 with the report.

23 Q. Did you look at the discovery  
24 responses that the attorneys typed up for you in  
25 response to questions that I asked about various

1 details about the incident?

2 A. I'm not -- the attorneys had a form  
3 that they were asking me questions. I know that  
4 it was supposed to be signed off on, some paper  
5 that I signed off on, I don't know if that's it or  
6 not.

7 Q. Anything else that you looked at  
8 related to the case or the shooting of Dontae  
9 Martin in the last six months?

10 A. No.

11 Q. I assume that you've had  
12 conversations with your attorneys over the last  
13 few years so I won't ask you any questions about  
14 those discussions.

15 A. Okay.

16 Q. So if I ask you a question and you  
17 say to yourself, oh, that was with my attorney,  
18 just tell me that without answering the question.

19 A. Okay.

20 Q. However, if you did have discussions  
21 with your attorney and someone else was present,  
22 then I may ask you more about those conversations  
23 so we will have to break those down when the time  
24 comes.

25 A. Okay.

1 Q. In the last six months have you  
2 talked to anyone other than a meeting with you and  
3 your attorneys alone about this case or the  
4 shooting?

5 A. No.

6 Q. Have you talked to Joshua Haas in the  
7 last six months at all about anything?

8 A. Yeah, we talked.

9 Q. Okay. And what have you two talked  
10 about?

11 A. Asked him about his current job  
12 status, asked how he's doing, asked him about his  
13 dinners that he's had. In general it's just more  
14 of a catching up because we don't see each other  
15 as often as we used to.

16 Q. At any time would you consider Joshua  
17 Haas a friend of yours, either at work or outside  
18 of work?

19 A. Yes.

20 Q. Somebody you would socialize with and  
21 do things with outside of work?

22 A. Yes.

23 Q. And when did that relationship start?

24 A. I don't know, maybe 2009, 2010.

25 Q. Okay. And were you working together

1 at that time, on the same shift or beat?

2 A. I don't think so. We'd maybe pass  
3 each other in working shifts and stuff.

4 Q. And what kind of things did you do  
5 together as friends outside of work?

6 A. I know we've gone to dinner a couple  
7 of times. I know we went and watched a movie.  
8 He's come to my house. We've looked at my  
9 property regarding hunting.

10 Q. Do you hunt together?

11 A. No, we never did hunt together.

12 Q. Fish, do any other sports together?

13 A. No.

14 Q. And how about your families, do they  
15 interact with each other, have a social  
16 relationship?

17 A. My family and his family?

18 Q. Yes.

19 A. Not really. It was a -- when Josh  
20 and I would hang out, you know, my wife and his  
21 wife had a good relationship. I had a good  
22 relationship with his kids to the point of -- and  
23 this goes with my wife and his wife, not as a call  
24 each other up and see how things are going, but  
25 Josh and I are wanting to go hang out and do

1 things so the wives were cordial and things.

2 Q. Okay. Have you spoken to Joshua Haas  
3 about this incident at any time since the night of  
4 the shooting?

5 A. Yeah, we've talked about it.

6 Q. Okay. How many times do you think  
7 you've talked to him about the actual events that  
8 night?

9 A. I don't know if -- just -- can you  
10 explain events a little bit deeper for me?

11 Q. I think I'd make it really broad. I  
12 mean that shift, from the shooting through the end  
13 of shift that night -- that morning.

14 A. I -- you know, whatever number I'd  
15 give you would be a guess, but, you know, very  
16 limited number of times and it was extremely  
17 broad, just in the sense of, you know -- no detail  
18 as far as what happened that night, it was more  
19 along the lines of, you know, just why things  
20 happened, you know. More of a why and it's like,  
21 you know, we don't know. It's not our -- it's not  
22 our fault, you know. It's okay. You know, we'll  
23 make it.

24 Q. Between the shooting on July 15th and  
25 the grand jury which convened in November of that



1 year did you talk to Josh about the events of the  
2 shooting?

3 A. You said July 15th?

4 Q. I'm sorry. Let me -- let me start  
5 from the moment of the shooting --

6 A. Okay.

7 Q. -- until the grand jury -- let me do  
8 it until the end of November, did you talk to him  
9 about the shooting; the events that led to it, the  
10 reasons that occurred, any of the details? So  
11 that would be during those five months.

12 A. Did we ever talk details of the  
13 shooting?

14 Q. Yes.

15 A. No.

16 Q. What about between the time of the  
17 shooting and the time you turned your written  
18 statement in to the County, did you talk to him?

19 A. Yes, we talked, but did we talk  
20 details? No, we never talked details about the  
21 shooting.

22 Q. So sitting here today, have you ever  
23 had a conversation with Joshua Haas about the  
24 details of the shooting?

25 A. No.

1 Q. This is going to be the first time he  
2 ever hears from you what your position is as to  
3 what happened?

4 A. I believe so, yes.

5 Q. How old are you? I don't need your  
6 birth date, just age.

7 A. Forty-three.

8 Q. And how long have you been in law  
9 enforcement?

10 A. I want to say September of '97.

11 Q. You don't have any military  
12 background; is that right?

13 A. Yes and no. I was in the Marine  
14 Corps and I suffered an injury to my leg.

15 Q. And when were you in the Marine  
16 Corps?

17 A. That would have been -- I went in  
18 March 21st, 1995.

19 Q. Okay. And when did you -- when were  
20 you discharged?

21 A. Four months later.

22 Q. Where did you serve?

23 A. It was all at Parris Island.

24 Q. And was that injury related to  
25 training?

1 A. Yes.

2 Q. Is that the reason you left the  
3 military?

4 A. Yes.

5 Q. Was that a permanent injury?

6 A. You know, I don't know how they  
7 titled it.

8 Q. Oh, I mean do you still suffer from  
9 that injury today?

10 A. Yeah, I walk with a limp.

11 Q. Any other military experience?

12 A. No.

13 Q. Ever been arrested?

14 A. Have I ever been arrested?

15 Q. Yes.

16 A. No.

17 Q. I see you finished high school?

18 A. Yes.

19 Q. And what year did you graduate?

20 A. '94.

21 Q. Any college or any other formal  
22 education after high school?

23 A. No.

24 Q. And since you finished high school,  
25 between high school and working in law

1 enforcement, did you do any other career paths  
2 other than law enforcement?

3 A. I was a firefighter.

4 Q. And where was that?

5 A. Loveland-Symmes Fire Department,  
6 Forest Park Fire Department, Glendale Fire  
7 Department. I think that's it.

8 Q. And what made you switch from  
9 firefighting to law enforcement?

10 A. I always wanted to be a police  
11 officer.

12 Q. And when did you get your academy --  
13 go to the academy?

14 A. I believe it was September of '97.

15 Q. And where have you worked since  
16 you've been a sworn officer?

17 A. Arlington Heights Police Department.  
18 That is a department that on paper I worked at but  
19 I never even worked a day there. That was  
20 required for me to go to the police academy to be  
21 sponsored by an agency.

22 Q. Were you considered auxiliary?

23 A. Yes.

24 Q. So you never worked, you never  
25 received pay?

1 A. Correct.

2 Q. And after that?

3 A. Went to Golf Manor Police Department.

4 Q. Also auxiliary?

5 A. No, that was part time.

6 Q. Was that after you had your  
7 certification?

8 A. Yes.

9 Q. And how long were you there part  
10 time?

11 A. I don't remember.

12 Q. And after --

13 A. A couple years.

14 Q. Did you work anywhere else while you  
15 were in Golf Manor?

16 A. I was working at one of the fire  
17 departments.

18 Q. What other law enforcement agencies?

19 A. I worked at Warren County Sheriff's  
20 Office, Woodlawn Police Department, and now here,  
21 the sheriff's office.

22 Q. Okay. And why did you leave Golf  
23 Manor?

24 A. They laid off their entire part-time  
25 staff.

1 Q. And why did you leave Warren County?

2 A. For a full-time position with  
3 Woodlawn. Warren County was a corrections  
4 officer.

5 Q. Was that a sworn position at Warren  
6 County or were you an unsworn corrections officer?

7 A. You know, I don't know how they  
8 classified it there. We were not deputies. We  
9 were corrections officers.

10 Q. So Woodlawn, was that your first  
11 full-time law enforcement?

12 A. Yes.

13 Q. And how long did you stay there?

14 A. Hang on just a second. Montgomery  
15 County -- or Warren County was a full-time  
16 position but it was a corrections officer, not a  
17 deputy.

18 Q. Oh, I thought you said part-time  
19 corrections.

20 A. No, it's full time.

21 Q. No chance to move up in Warren County  
22 to get out of corrections?

23 A. There's always opportunity.

24 Q. Oh. So why did you leave?

25 A. Because I wanted a full-time road

1 position.

2 Q. So you wanted a full-time position as  
3 a road deputy?

4 A. As a road officer, yes.

5 Q. Road officer. And how long did you  
6 stay at Woodlawn?

7 A. Five or six years.

8 Q. And did you achieve any rank other  
9 than officer?

10 A. No, just police officer.

11 Q. And while you were there did you have  
12 any discipline?

13 A. I would -- do you have my personnel  
14 file from there or anything so I can go back and  
15 review it?

16 Q. I'm asking you.

17 A. I don't know.

18 Q. You don't know if you had discipline  
19 or you don't remember what discipline you had?

20 A. I don't remember what or if any  
21 discipline I had.

22 Q. And why did you -- while you were at  
23 Woodlawn did you use force on suspects?

24 A. Yes.

25 MS. DINEHART: Objection.

1 BY MS. BRANCH:

2 Q. And what type of force?

3 A. I've used -- I've used the taser in  
4 the past. And then I know I've had a couple of  
5 balance displacements.

6 Q. Did you ever shoot your weapon at a  
7 suspect?

8 A. No.

9 Q. What about aim your weapon at a  
10 suspect?

11 A. Yes.

12 Q. Was that considered a use of force at  
13 Woodlawn?

14 A. That policy had changed several times  
15 while I was there so at the time of it, I don't  
16 remember if they used that as a use of force or  
17 display of force or not.

18 Q. And of the use of forces that you had  
19 at Woodlawn, were those investigated by their use  
20 of force committee?

21 MS. DINEHART: Objection.

22 THE WITNESS: All their uses of force  
23 were investigated, but I don't know the process,  
24 how they did that.

25 BY MS. BRANCH:



1 Q. And what were the outcomes of those?

2 A. All the use of forces I've been  
3 involved in were justified.

4 Q. And at Golf Manor did you use force?

5 MS. DINEHART: Objection.

6 THE WITNESS: I don't remember any at  
7 Golf Manor.

8 BY MS. BRANCH:

9 Q. And did you receive any discipline  
10 while you were at Golf Manor?

11 A. I don't know.

12 Q. How about Warren County, did you use  
13 force as a corrections officer?

14 A. Yes.

15 Q. And were those investigated?

16 A. Yes.

17 Q. And what were those outcomes?

18 A. Everything was justified.

19 Q. And how about discipline at Warren  
20 County?

21 A. I don't know.

22 Q. Montgomery County Sheriff's Office,  
23 you've been here since 1997; is that right?

24 A. No. I've been here since 2006.

25 Q. 2006. I'm sorry. And did you start

1 in corrections?

2 A. No.

3 Q. You started as a road patrol?

4 A. Yes, ma'am.

5 Q. And have you received any promotions  
6 since then, since you started?

7 A. No, I'm still a deputy.

8 Q. Did you take any promotional exams?

9 A. No.

10 Q. And of the discipline that you've had  
11 at Montgomery County Sheriff's Office, what do you  
12 recall?

13 A. I would have to see my personnel  
14 file. Do we have that?

15 Q. So you don't recall without reviewing  
16 your file?

17 A. Correct.

18 Q. And how about use of force, have you  
19 used force in the Montgomery County Sheriff's  
20 Office other than the incident involving Dontae  
21 Martin?

22 MS. DINEHART: Objection.

23 THE WITNESS: Yes.

24 BY MS. BRANCH:

25 Q. Have you used your firearm to shoot

1 someone or shoot at a suspect other than Dontae  
2 Martin?

3 A. No.

4 Q. Have you used your firearm as a show  
5 of force in any situation in Montgomery County?

6 A. Yes.

7 Q. Have you used a taser at Montgomery  
8 County?

9 A. Yes.

10 Q. And you've used force involving  
11 handcuffing?

12 MS. DINEHART: Objection.

13 BY MS. BRANCH:

14 Q. Does Montgomery County -- let me ask  
15 it this way, does Montgomery County consider the  
16 use of handcuffs a use of force?

17 A. Properly applying handcuffs on  
18 somebody as use of force?

19 Q. Yes.

20 A. No.

21 Q. Have you been in situations in  
22 Montgomery County where you've been accused of  
23 excessive force with handcuffs?

24 A. No.

25 MS. DINEHART: Objection.

1 BY MS. BRANCH:

2 Q. Have you been -- used balance  
3 displacement techniques or hands-on uses of force  
4 at Montgomery County?

5 A. Yes.

6 Q. Okay. And of all of those uses of  
7 force, have any of them -- have all of them been  
8 investigated by the County?

9 A. Yes.

10 Q. And in those situations were any  
11 found to be unjustified use of force?

12 A. They're all justified that I can  
13 think of.

14 Q. And how many uses of force  
15 investigations have you been subjected to since  
16 you've been here at the County?

17 A. I have no idea.

18 Q. What is a justified use of force in  
19 the terms of Montgomery County's policies,  
20 procedures, and training?

21 MS. DINEHART: Objection.

22 THE WITNESS: Do you have that  
23 policy? I can read it and let you know.

24 BY MS. BRANCH:

25 Q. So your answer would be to read to me

1 the use of force policy?

2 A. If you want me to, I can read it to  
3 you.

4 Q. No, I don't want you to read the  
5 policy. We have it. I'm just asking you if you  
6 know -- when you said all of your uses of force in  
7 all of these jurisdictions were justified, what  
8 did you mean by that?

9 A. When they were investigated, the  
10 outcome was that they were justified.

11 Q. And what would justify a use of force  
12 by a law enforcement officer against a citizen?

13 MS. DINEHART: Objection.

14 THE WITNESS: I really have no idea  
15 what you're asking me.

16 BY MS. BRANCH:

17 Q. Do you know what your use of force  
18 limits are in Montgomery County, when you can use  
19 deadly force and when you can't?

20 A. Yes.

21 Q. And what are those?

22 A. To protect myself, my partner, the  
23 community.

24 Q. Anything else?

25 A. That's the basics of it, but if you

1 have the policy, I can go through and read it for  
2 you.

3 Q. That's okay. You don't need to read  
4 me the policy.

5 A. Okay.

6 Q. Have you been involved in any of your  
7 career in law enforcement where you observed  
8 another officer using force that you thought was  
9 not justified?

10 A. No.

11 (Thereupon, Plaintiff's Exhibit 19,  
12 one colored photograph, was previously marked for  
13 purposes of identification.)

14 BY MS. BRANCH:

15 Q. If you can look at Exhibit 19 in the  
16 book. Is that a photograph of you? Is that a  
17 photograph of you?

18 A. Yes.

19 Q. It's my understanding this photograph  
20 was taken after the shooting sometime in the early  
21 morning of July 23rd, 2015. Do you recall this  
22 photograph being taken?

23 A. I don't know if it was this  
24 photograph, but I do remember someone taking a  
25 photo of me.

1 Q. And is this how you appeared that  
2 morning --

3 A. Yes.

4 Q. -- at the time of the shooting?

5 A. I believe so, yes.

6 Q. And your firearm is on your right hip  
7 of your duty belt; is that correct?

8 A. Yes.

9 Q. And where is your flashlight?

10 A. I don't think you can see it on here.

11 Q. Where would it be?

12 A. In this picture it would be on the  
13 right-hand side behind my radio.

14 Q. Okay. And were you wearing your  
15 radio the way it is depicted in the photograph, on  
16 your hip and then the microphone on your shoulder?

17 A. Yes.

18 Q. And at that time what was your height  
19 and weight?

20 A. Five seven, about a hundred and  
21 seventy-five, hundred and eighty pounds.

22 Q. And is that the height without your  
23 shoes?

24 A. Yes.

25 Q. And how -- what would your height be

1 with your shoes or boots that you were wearing  
2 that night?

3 A. I have no idea.

4 Q. And what were you -- what kind of  
5 footwear did you wear?

6 A. Boots.

7 Q. Same thing you're wearing today?

8 A. No, these are brand-new.

9 Q. Did you have about a one inch heel on  
10 your boots?

11 A. I have no idea.

12 Q. What else did you have as equipment  
13 that you were wearing on your uniform at the time  
14 of the shooting?

15 A. I would have worn two pairs of  
16 handcuffs, a taser, an asp. Flashlight, taser,  
17 asp, two handcuffs, my radio, firearm. My  
18 magazines, two of them. Two magazines in a single  
19 pouch. I would have worn my keys. I believe  
20 that's it.

21 Q. Do you have your flashlight on you  
22 today?

23 A. No.

24 Q. Do you have your firearm with you?

25 A. Yes.



1 Q. Is it the same firearm you used?

2 A. No.

3 Q. The fire -- the flashlight that you  
4 used in July of 2015, did it have multiple  
5 settings?

6 A. I -- I don't think it does -- or did.

7 Q. Did it have multiple colors?

8 A. As far as -- well, no.

9 Q. So it just had one brightness?

10 A. Yes, as far as I can remember.

11 Q. And do you still have that  
12 flashlight?

13 A. No.

14 Q. And do you still use a Pelican  
15 flashlight?

16 A. Yes.

17 Q. Did you have a microphone on your  
18 person that night?

19 A. Yes.

20 Q. And where was that?

21 A. In my pocket.

22 Q. Which pocket?

23 A. In my chest pocket. Right pocket.

24 Q. Okay. Can I see -- can we see that  
25 in the photograph?

1 A. The mic? No.

2 Q. And was the microphone inside the  
3 pocket or attached to the pocket?

4 A. Inside the pocket.

5 Q. And how would you activate it?

6 A. It could be activated by pushing a  
7 button. It's activated by overhead lights turning  
8 on. The exact system I don't remember. We've  
9 changed systems several times so I don't remember  
10 which system we were using at the time. All of  
11 our systems are activated by pushing the button,  
12 the overhead lights turning on. Newer systems  
13 today have changed, and I don't remember what  
14 system we had then, but it could be activated by G  
15 force in the car, sudden stopping, speed, large  
16 jolt in the vehicle, like if you hit a big  
17 pothole. That's the system that I use today, I  
18 just don't remember if it was the same system  
19 then.

20 Q. Okay. So at least the overhead  
21 lights, if they were activated, your microphone  
22 would have gone on back in July of '15?

23 A. Yes.

24 Q. And is the microphone always inside  
25 your right front breast pocket?

1 A. Yes.

2 Q. Does it pick up your voice even  
3 though it's inside your pocket?

4 A. Yes.

5 Q. And you said it could also be  
6 activated by hitting a button. Is that a button  
7 on your person?

8 A. It's a button on the -- on the mic  
9 box itself.

10 Q. Okay. And do you have one on you  
11 now?

12 A. No.

13 Q. How would you access the button? Do  
14 you have to actually go in your pocket or can you  
15 do it from the outside of your pocket?

16 A. I can do it from the outside.

17 Q. All right. So you were -- did you  
18 have occasion while you were an officer to  
19 activate your microphone from the pocket button  
20 back in 2015?

21 A. I'm sorry, I don't understand what  
22 you're asking. Say that again.

23 Q. Did you ever activate your  
24 microphone --

25 A. Yes.

1 Q. -- that was in your pocket by hitting  
2 the button?

3 A. Yes.

4 Q. Okay. It was something you were  
5 comfortable doing?

6 A. Yes.

7 Q. Knew how to do?

8 A. Yes.

9 Q. Able to do that correctly and get the  
10 recording started?

11 A. Yes. When we get a minute, I have to  
12 use the restroom.

13 Q. Sorry, that was one of my ground  
14 rules that I skipped. You're welcome to take a  
15 break whenever you need. You don't have to tell  
16 me why.

17 A. Okay.

18 Q. I just ask that you finish answering  
19 whatever the question is. If you want to take a  
20 break now, that's fine.

21 A. Okay. Yeah. Just give me a couple  
22 minutes.

23 (Pause in proceedings.)

24 (Thereupon, Ms. Jagielski exited the  
25 room.)

1 BY MS. BRANCH:

2 Q. Have you ever been sued before?

3 A. Yes.

4 Q. How many times?

5 A. I remember one. I remember one.

6 Q. What was that about?

7 A. That one was a -- it was a -- I don't  
8 know what you want to call it. I don't know what  
9 the lawsuit was for.

10 Q. Oh. What was the -- what happened  
11 that gave rise to the lawsuit?

12 A. A deputy -- or not deputy, this is  
13 when I was in Woodlawn. There was a police  
14 officer that was involved in an incident that at  
15 the end of the incident he wound up being sued  
16 over.

17 Q. What were the things that he said or  
18 did that got him sued?

19 A. I'm not allowed to discuss that.

20 Q. The basis for the lawsuit?

21 A. I don't remember what it was or don't  
22 know what it was.

23 Q. Were you a defendant in the lawsuit?

24 A. Yes.

25 Q. And there was a confidential

1 settlement reached in that case?

2 A. I'm not sure what it was titled. I  
3 just know at the end of it we were told we were  
4 never allowed to discuss it as part of the --

5 Q. You were not allowed to discuss the  
6 settlement?

7 A. The way I understood it, we were not  
8 allowed to discuss the lawsuit or anything.

9 Q. Okay. Well, you're being deposed  
10 today so I don't know what the grounds are of your  
11 settlement agreement, if your attorney does, you  
12 can let me know, but I'm not interested in what  
13 the settlement was, I'm interested in just what  
14 the issue was that got everybody sued. What were  
15 the allegations?

16 A. As I just --

17 MS. DINEHART: I'm just going to step  
18 in and say I don't know what the grounds are of  
19 the agreement, I don't know what lawsuit he's  
20 referring to, I haven't looked into it at all, but  
21 it's his belief, as he's testified today, that the  
22 whole thing might be confidential. I can maybe  
23 try and find out later what exactly this lawsuit  
24 is, but maybe you can ask him for the time frame  
25 and look it up so that he's not breaching any kind

1 of confidentiality orders as he understands them.

2 BY MS. BRANCH:

3 Q. Were you sued in state court or  
4 federal court?

5 A. I believe it was state court.

6 Q. Okay. And were you named as a  
7 defendant?

8 A. No.

9 Q. You were a witness?

10 A. You know, I don't even know how  
11 it's --

12 Q. Who was the -- who were the other  
13 officers involved that were sued?

14 A. I can't discuss it.

15 Q. So I can't look it up if I don't know  
16 the name of the defendant.

17 A. I'm sorry, I don't know what to tell  
18 you.

19 Q. Okay. So if -- who represented you  
20 in that case?

21 A. I remember one name, the attorney's  
22 name was Lynnette Ballato.

23 Q. Okay.

24 A. I believe that's how it was  
25 pronounced.

1 Q. Yes. I know who she is. And what  
2 year or years did that litigation take place?

3 A. Early 2000, 2001, somewhere in that  
4 area.

5 Q. Were you still with Woodlawn when it  
6 was over?

7 A. Yes.

8 Q. Okay. Well, we'll come back to this.  
9 Any other cases in which you've been involved in  
10 litigation either as a witness or a defendant or  
11 even a plaintiff?

12 A. Nothing that I can think of.

13 Q. On July 23rd, 2015, what was your  
14 assignment that shift? Were you assigned to  
15 Harrison Township?

16 A. Yes.

17 Q. And what was your shift hours?

18 A. It would be 11:30 to 8:02 I think is  
19 our time frame for midnights.

20 Q. Is that considered third shift?

21 A. That's considered first shift.

22 Q. And before you got the call regarding  
23 the accident or the one car -- the two car vehicle  
24 accident on Springbrook, what were you doing?

25 A. We were doing a narcotics



1 investigation.

2 Q. And where was that?

3 A. What's the name of the street? I  
4 cannot remember the name of the street that we  
5 were on.

6 Q. In Harrison Township?

7 A. Yes.

8 Q. And what were you investigating?

9 A. We had smelled marijuana coming from  
10 a group of individuals that were on the street,  
11 and I cannot think of the name of the street.

12 Q. That's a good example, if you think  
13 of it as we go forward, just let me know.

14 A. Okay.

15 Q. And what were you doing to  
16 investigate; talking to the individuals or  
17 stopping and frisking?

18 A. We had smelled the odor of  
19 marijuana -- or I had smelled the odor of  
20 marijuana, called Deputy Haas on the radio, told  
21 him what I had smelled, asked him to come over and  
22 let's do a foot patrol in the area. I don't  
23 remember us actually getting to the full  
24 investigation of it before we got the auto  
25 accident call. I don't remember how far we went

1 with the investigation.

2 Q. Okay. Were you -- you and Deputy  
3 Haas both out of your vehicles and on your feet  
4 doing this patrol before you got the call?

5 A. Yes.

6 Q. And how long were you out on the foot  
7 patrol?

8 A. A couple minutes.

9 Q. Did someone take over that  
10 investigation or you just abandoned it?

11 A. I can't say abandoned because I don't  
12 remember how far we went into it, but we left that  
13 call.

14 Q. And did your sergeant, Sergeant  
15 McLaughlin, know that you were on the foot patrol?

16 A. I don't know what he knew.

17 Q. And why did you call Deputy Haas to  
18 assist? Oh, let me ask you this way, were there  
19 any other deputies available to assist you?

20 A. I have no idea who else was  
21 available.

22 Q. And why did you call Deputy Haas?

23 A. Because the way Harrison Township is  
24 designed, there's an east and a west side of  
25 Harrison. You have an eleven beat and a twelve

1 beat on the west side and a thirteen and fourteen  
2 beat on the east side and it's split by the city  
3 of Dayton, and Deputy Haas and I both worked the  
4 west side together.

5 Q. And how long had you and Deputy Haas  
6 been working together on the west side?

7 A. A couple years.

8 Q. Anything else that you remember about  
9 what you did on shift before you arrived at 324  
10 Springbrook Boulevard?

11 A. We had our roll call, our vehicle  
12 checks. I don't -- we on occasion would go to one  
13 of the gas stations and pick up something to  
14 drink. I don't know if we did it that night, but  
15 probably did get -- stop and get something to  
16 drink because that was a fairly normal thing that  
17 we did together. Then went about our patrol. I  
18 don't remember if we got any dispatches between  
19 that time and the drug complaint, and then from  
20 the drug complaint to the auto accident.

21 Q. So when you smelled marijuana, you  
22 were responding to a complaint?

23 A. When I say drug complaint, I'm the  
24 complainant because I smelled the marijuana.

25 Q. Oh, I see. I've got it. I assume

1 you were drinking nonalcoholic beverages?

2 A. Yes.

3 Q. Okay. Were you tired that night?

4 A. No.

5 Q. Had you worked -- what was your  
6 normal workweek?

7 A. We work five -- our normal schedule  
8 is we work five days on, two days off, five days  
9 on, three days off. I have no idea where I was at  
10 in that rotation.

11 Q. Hadn't worked any extra shifts --

12 A. No.

13 Q. -- that month?

14 A. That month? I don't remember that  
15 month.

16 Q. Do you know if you had worked the  
17 shift before on the 22nd?

18 A. My shift or the shift --

19 Q. July 22nd.

20 A. I worked July 22nd from 11:30 at  
21 night until 8:00 o'clock in the morning -- or 8:02  
22 in the morning.

23 Q. But no extra shift that day?

24 A. No.

25 Q. Anything that would have distracted

1 you while you were at work on July 23rd?

2 A. No.

3 Q. Any medications that you were taking?

4 A. I'm on pantoprazole, which is an acid  
5 reflux medication.

6 Q. Anything else?

7 A. No.

8 Q. In the interview with Detective  
9 Kellar he says that you were on prescription  
10 medications that evening. Do you know what you  
11 had taken before you went on shift on the 22nd --

12 A. I --

13 Q. -- on the 22nd at 11:30 at night?

14 A. That day, I don't know if it was just  
15 before shift but I would have taken the  
16 pantoprazole, which is a prescription medication.

17 Q. Anything else that you would have  
18 ingested that was a medication?

19 A. No.

20 Q. Tell me about the firearm that you  
21 carried with you that night.

22 A. I would have to review my report.  
23 I've changed firearms since then so...

24 Q. The records show that you had a Glock  
25 Model 23 pistol that fired forty caliber rounds.

1 Is that right?

2 A. Yes, that's correct.

3 Q. It was a semiautomatic weapon?

4 A. Yes.

5 Q. Did it have a capacity to be  
6 non-semiautomatic, in other words, you could do a  
7 single trigger pull and just shoot one shot?

8 A. That's what semiautomatic is.

9 Q. And do you know how you were  
10 operating the gun that evening? Did you do a  
11 single --

12 MS. DINEHART: Objection.

13 BY MS. BRANCH:

14 Q. Let me ask it this way. On your  
15 Glock that you were using back in July of 2015 --

16 A. Okay.

17 Q. -- how did you use that weapon on a  
18 firing range? What different techniques did you  
19 use when you were training?

20 MS. DINEHART: Objection.

21 THE WITNESS: I'm sorry, I have no  
22 idea what you're asking, what kind of techniques I  
23 used. You mean --

24 BY MS. BRANCH:

25 Q. Did you always use it in a

1 semiautomatic mode when you were training?

2 A. Yes. There's only a semiautomatic  
3 mode to that gun.

4 Q. And how many rounds did you carry in  
5 your magazine?

6 A. I believe those magazines were  
7 thirteen rounds.

8 Q. And you had one in the chamber?

9 A. Yes.

10 Q. So that night you had fourteen rounds  
11 in your weapon?

12 A. Yes.

13 Q. And you had two spares of thirteen?

14 A. Two spare magazines, yes.

15 Q. Did you -- do you know sitting here  
16 today how many shots you fired that night?

17 A. I do now, yes.

18 Q. And what was the total number?

19 A. Seven.

20 Q. And how many of those struck Dontae  
21 Martin?

22 A. I -- I think it was seven, but I'm  
23 not a hundred percent sure. I would have to read  
24 a report that might reflect exactly what that is.

25 Q. And what report would that be?

1           A.    No idea. That's what I'm asking you.  
2 If you have a report telling me that --

3           Q.    Well, I thought you hadn't looked at  
4 any reports or documents related to the case  
5 except your statement?

6           A.    I just asked you if you have a  
7 report, tell me, then I can reflect that answer to  
8 you; but I don't have that report.

9           Q.    I see. And so why do you think you  
10 shot him seven times?

11          A.    Because I pulled the trigger seven  
12 times.

13          Q.    And why did you pull the trigger only  
14 seven times if you had the ability to pull it  
15 more?

16          A.    Well, during the time I didn't count  
17 so I had no idea how many I was pulling --

18          Q.    Sure.

19          A.    -- but I stopped when I no longer  
20 could see my threat.

21          Q.    Tell me what you mean by that.

22          A.    What I mean by what's the threat?

23          Q.    You stopped when you no longer could  
24 see your threat.

25          A.    I could no longer see Dontae Martin



1 in the vehicle.

2 Q. And why could -- why was there a  
3 point in time that you could no longer see him in  
4 the vehicle? Had your flashlight moved?

5 A. I was moving.

6 Q. And you were moving backwards?

7 A. Yeah, for the -- not directly  
8 backwards but it was back and at an angle.

9 Q. Okay. You were positioned at the  
10 right rear fender of the vehicle at the time you  
11 started shooting; is that right?

12 A. No. I was -- I was near the -- and  
13 forgive me, I don't use right and left because  
14 depending on what side you're looking at the car,  
15 it could be right or left --

16 Q. Oh, sure.

17 A. -- so I'll just use passenger side.

18 Q. That's fine.

19 A. I began firing my weapon when I was  
20 at about the rear passenger door.

21 Q. And where were you when you stopped  
22 firing?

23 A. Toward the rear passenger fender.

24 Q. And one of your bullets hit the door;  
25 is that right?

1           A.    I have no idea where my bullets hit,  
2   ma'am.

3           Q.    Have you seen any of the photographs  
4   of the vehicle after the shooting?

5           A.    I don't remember seeing any pictures  
6   of the car afterwards.

7           Q.    Do you remember hitting the door?

8           A.    I know I hit in the area. I don't  
9   know what I hit --

10          Q.    Do you remember hitting the --

11          A.    -- of the part of the car.

12          Q.    -- glass?

13          A.    You know, just -- I don't -- you  
14   know, what I hit on the vehicle, I don't remember  
15   what I hit. I don't know what I hit. I don't  
16   remember going back and ever seeing it.

17          Q.    You said that you stopped firing when  
18   you had moved away from -- far enough away from  
19   the vehicle that you could no longer see Dontae  
20   Martin inside the vehicle; is that right?

21                   MS. DINEHART: Objection.

22                   THE WITNESS: I don't know if it was  
23   because it was too far away, but I could no longer  
24   see the -- Mr. Martin.

25   BY MS. BRANCH:

1 Q. And how far away were you at the  
2 point that you could no longer see him?

3 A. I would -- probably -- when I stopped  
4 firing, I was probably six to eight feet from the  
5 rear passenger side bumper, fender area.

6 Q. And you were closer than that when  
7 you first started firing; is that right?

8 A. Yes, ma'am.

9 Q. And how many steps -- or feet closer  
10 were you when you started to fire?

11 A. I was probably two feet from the  
12 vehicle.

13 Q. Close enough to touch it?

14 A. No, I couldn't touch it. I was  
15 probably further away. Two, three feet.

16 Q. I forget, you told me how tall you  
17 were. Do you know how long your reach is?

18 A. I have no idea.

19 Q. So somewhere between three feet and  
20 six feet you lost visual contact with Dontae  
21 Martin?

22 A. Yes.

23 Q. Was your flashlight up and shining  
24 into the vehicle the whole time you were shooting?

25 A. Yes.

1 Q. And at what angle was your  
2 flashlight?

3 A. I have no idea.

4 Q. And were you looking through the rear  
5 passenger window?

6 MS. DINEHART: Objection.

7 THE WITNESS: The passenger door?  
8 BY MS. BRANCH:

9 Q. Well, I was asking if you were  
10 looking through the window on the rear passenger  
11 side.

12 MS. DINEHART: Objection.

13 THE WITNESS: Are we talking about  
14 the driver's side -- or the passenger side door or  
15 the passenger side of the rear window?

16 BY MS. BRANCH:

17 Q. I see. Let me just say there would  
18 be -- there's a passenger side front door window,  
19 a passenger side back door window --

20 A. Okay.

21 Q. -- and then a passenger side small  
22 window that doesn't open.

23 A. Okay.

24 Q. Do you know which of those three  
25 windows you were looking through when you first

1 saw him?

2 A. It would be the passenger side door  
3 window, the one that goes up and down.

4 (Thereupon, Ms. Jagielski entered the  
5 room.)

6 BY MS. BRANCH:

7 Q. Okay. And that's the back door  
8 window?

9 A. Yes.

10 Q. And at the time that you stopped  
11 seeing him, were you looking through that same  
12 window or the small window that doesn't move?

13 A. Neither one.

14 Q. Were you looking through the rear  
15 window?

16 A. Yes.

17 Q. That was also tinted?

18 A. Yes.

19 Q. The rear windshield -- or the rear  
20 window?

21 A. Yes.

22 Q. So you said that you fired seven  
23 shots and only seven shots because you no longer  
24 could see Dontae Martin in the vehicle; is that  
25 right?

1 A. Correct.

2 Q. And you started off by saying you  
3 could no longer see my threat; is that right?

4 A. Yes.

5 Q. And your threat in your assessment of  
6 the threat at the scene was Dontae Martin was a  
7 threat to your partner, Officer Haas; is that  
8 right?

9 A. Dontae possessing a firearm was my  
10 threat.

11 Q. And what was the threat that you saw?

12 A. Him holding a firearm.

13 Q. Anything else?

14 A. That's the initial threat. That's  
15 what made it the threat. It evolved into him  
16 pointing it at Deputy Haas.

17 Q. Any other threats that you  
18 identified?

19 A. No. The fact that, you know, he  
20 pointed the firearm at Deputy Haas, that was my  
21 threat, and then you no longer see that.

22 Q. Okay. So I just want to make sure  
23 I've got all the threats that you identified that  
24 caused you to fire your weapon at Dontae Martin.  
25 The fact that Dontae Martin was holding a firearm

1 was one threat and the fact that he pointed a  
2 firearm at Deputy Haas was another threat; is that  
3 right?

4 A. Well, it is a little bit more into it  
5 than just the fact that he's holding the firearm.  
6 He's holding a firearm and he is not complying  
7 with our commands to drop the firearm. He  
8 continues to raise the firearm during our orders  
9 for him to drop the firearm so that continues to  
10 heighten that threat to an even greater threat to  
11 the point that Dontae looked for Deputy Haas in  
12 the driver's side mirror and raised the firearm up  
13 toward his shoulder pointing it toward Deputy  
14 Haas.

15 Q. Anything else?

16 A. We had that threat -- Deputy Haas was  
17 definitely a large part of the threat or being a  
18 victim of this threat, but I also had numerous  
19 civilians standing around that I had to worry  
20 about that threat as well.

21 Q. Anything else?

22 A. Not knowing what Dontae was thinking,  
23 I worried about my safety.

24 Q. Anything else?

25 A. Nothing off the top of my head.

1 Q. Okay. So the question was what was  
2 the -- you said you stopped shooting when you no  
3 longer could see my threat, and the threat  
4 includes Dontae Martin holding a firearm, Dontae  
5 Martin pointing the firearm at Deputy Haas, Dontae  
6 Martin not complying with your command to drop the  
7 firearm, and you didn't know what Dontae Martin  
8 was thinking and that made you worried about your  
9 safety?

10 A. As well as the community.

11 Q. Okay. Anything else?

12 A. No.

13 Q. When you say that he was holding the  
14 firearm, tell me about why that's a threat.

15 A. It's a threat because, you know, you  
16 pull the trigger, you shoot and hurt somebody, you  
17 shoot and kill somebody.

18 Q. Okay. Is it a threat to possess a  
19 firearm?

20 MS. DINEHART: Objection.

21 THE WITNESS: You said -- ask that  
22 question again. I'm sorry.

23 BY MS. BRANCH:

24 Q. Are citizens in Ohio permitted to own  
25 a firearm?



1 A. Yes.

2 Q. Are they permitted to hold a firearm?

3 A. Yes.

4 Q. Okay. In Ohio people may possess a  
5 firearm and carry it out in the open; is that  
6 right?

7 A. Yes.

8 Q. They can also possess a firearm and  
9 carry it concealed; is that correct?

10 A. If they have --

11 MS. DINEHART: Objection.

12 THE WITNESS: If they have their  
13 concealed carry permits, yes.

14 BY MS. BRANCH:

15 Q. So at the time that you were  
16 perceiving Dontae Martin holding a firearm as a  
17 threat, why did you consider that a threat if it's  
18 legal to possess a firearm, carry it in the open,  
19 or even carry it concealed?

20 A. It becomes -- everybody who possesses  
21 a firearm, there is a potential threat to what  
22 they're going to do with that firearm. As a  
23 police officer, we have to keep that in the back  
24 of our minds of what an individual is going to do  
25 with that firearm. But when -- I'm sorry, the

1 vibration, whatever that was just took me off that  
2 comment.

3 Q. That's fine.

4 MS. BRANCH: Whoever's phone is on  
5 the table, if you could just take it off the table  
6 so we don't hear it.

7 THE WITNESS: When a police officer  
8 gives someone an order to do something specific,  
9 especially pertaining to a firearm, and every  
10 situation is different, but when an officer gives  
11 those orders and the individual does not listen  
12 and continues to do whatever he or she is doing,  
13 that increases my awareness, my thought of, you  
14 know, is this threat toward me, is it toward  
15 myself, is it toward somebody else, or is the  
16 individual just not hearing me or listening.

17 BY MS. BRANCH:

18 Q. So it's not holding the firearm, it's  
19 how the firearm is used in response to commands?

20 A. It's a totality of the moment. Every  
21 situation, again, is different. This situation is  
22 an auto accident where when he's told to drop the  
23 firearm he continues to hold the firearm and  
24 raising it up off of his leg. We've identified  
25 ourselves -- or I've identified myself as a deputy

1 sheriff and he continues to still hold that  
2 firearm and raise it up off of his leg, lower it  
3 back down, raise it up, lower it back down. And,  
4 again, we're continuing the orders telling  
5 somebody to drop the firearm, I, you know,  
6 perceive that as an individual that's not  
7 listening, doesn't want to comply with our  
8 commands, but the threat becomes reality when he  
9 raises that firearm and points it at another  
10 person.

11 Q. Okay. So I'm breaking down your  
12 answer. The first thing you told me, the first  
13 threat you stated was that he was holding a  
14 firearm. In Ohio is -- are you justified at  
15 shooting a person who's holding a firearm and  
16 doing nothing else?

17 MS. DINEHART: Objection.

18 THE WITNESS: As long as they're  
19 not -- as long as they're not, you know, going  
20 after an individual, you know, if they're not  
21 continuing a threat, you know. As a police  
22 officer, when I walk up on an individual who's  
23 holding a firearm, you know, is it legal for him  
24 to have the firearm in his hand? Absolutely, you  
25 know, but --

1 BY MS. BRANCH:

2 Q. You can't --

3 A. -- I can also order him to put down  
4 the firearm.

5 Q. Would you agree --

6 MS. DINEHART: Let him finish his  
7 answer.

8 THE WITNESS: And if he puts down the  
9 firearm, you know, then I continue on with  
10 whatever my business is being there and I know  
11 that I'm safe, I know that the people around me  
12 are safe, you know, and that being a partner, if I  
13 have one with me, that being civilians that are  
14 around. But the problem here is the fact that  
15 Dontae did not comply with what we told him to do.  
16 We told him to put down the firearm and he failed  
17 to put down that firearm --

18 BY MS. BRANCH:

19 Q. So I'm --

20 A. -- and continued -- hang on. And  
21 continued on after we gave him several orders to  
22 put down the firearm, and instead of just putting  
23 the firearm down, you know, he pointed it at my  
24 partner which forced me to fire, you know, my  
25 weapon. Had it been a situation where he had

1 never pointed it at my partner, just kept it on  
2 his lap and holding it, no idea what the outcome  
3 was because we have no idea what he would have  
4 done next, but we would have maintained -- or I  
5 would have never fired my weapon by him just  
6 holding the firearm and lifting it up off of his  
7 leg. But it wasn't until he pointed it at Deputy  
8 Haas that forced me to do what I did.

9 Q. So you would agree that a person just  
10 holding a firearm is not grounds to shoot them as  
11 a police officer?

12 MS. DINEHART: Objection.

13 BY MS. BRANCH:

14 Q. You need more than that?

15 A. Yeah, I have to have a lot more than  
16 just holding a firearm.

17 Q. Would you agree that when you gave  
18 Dontae Martin a command to put the gun down, he  
19 did?

20 A. Would I agree that he put the gun  
21 down when I gave him the command?

22 Q. Yes.

23 A. No, I wouldn't agree to that.

24 Q. Would you agree that there were  
25 multiple commands being given by you and Deputy

1 Haas at the same time?

2 A. I don't know what Deputy Haas was  
3 saying to him.

4 Q. And the command you were saying was  
5 put the gun down?

6 A. Sheriff's office, drop the gun, put  
7 the gun down, something in that relationship.

8 Q. Okay. And how often did you say --

9 A. I have no idea.

10 Q. -- put the gun down?

11 A. I have no idea. It was just a  
12 continuous order, one right after another.

13 Q. When you say that Dontae Martin  
14 pointed the gun at Deputy Haas, is that fact alone  
15 enough to shoot the suspect?

16 A. Yes.

17 Q. Have you been involved in situations  
18 where a suspect has pointed a gun at an officer  
19 and he's not been shot?

20 A. Not that I can think of.

21 Q. Have you been involved in a situation  
22 where a person pointed a gun at an officer and  
23 less than lethal force was used as a first  
24 response?

25 A. Ask that one more time.

1 MS. BRANCH: Could you read the  
2 question back?

3 (Record read.)

4 THE WITNESS: I was involved in an  
5 incident where an individual pointed the firearm  
6 and both lethal and less than lethal force was  
7 used at the same time.

8 BY MS. BRANCH:

9 Q. When you say that -- you said -- you  
10 said earlier that when Dontae Martin was in the  
11 car, he looked for Deputy Haas in his mirror?

12 A. Yes.

13 Q. Tell me about that.

14 A. From -- from my vantage point through  
15 the passenger windows -- or the passenger side of  
16 the car, he was holding the firearm in his right  
17 hand, keeps raising it up, putting it down,  
18 raising it up, putting it down, never released the  
19 gun from his hand, it was just a constant raising  
20 it up and putting it down, and I could see him  
21 looking over his shoulder and it would appear as  
22 if he looked in his driver's side door mirror and  
23 then after looking at the mirror he looked over  
24 his left shoulder and raised the gun up over -- up  
25 toward his left shoulder.

1 Q. And when did you recall these events  
2 happening, that he looked in the mirror and looked  
3 over his left shoulder?

4 A. What do you mean when did I recall  
5 it?

6 Q. When did you first --

7 A. When he was doing it.

8 Q. Those details are not in your  
9 statement, would you agree?

10 A. I would have to see my statement.

11 Q. You said you didn't know what Dontae  
12 Martin was thinking and that made you worried  
13 about the safety of yourself and others. How is  
14 that -- how did you use your worry as a threat  
15 assessment? Is that one of the things you took  
16 into account when you decided to fire your weapon?

17 MS. DINEHART: Objection.

18 THE WITNESS: Again, everything is a  
19 totality of the incident going on.

20 BY MS. BRANCH:

21 Q. Is this one of the circumstances?

22 A. You have a guy holding a firearm and  
23 you're ordering him numerous times to drop the  
24 firearm and he's looking around for your partner,  
25 as I perceived it, and he found him in the mirror



1 and raised the gun up to his left shoulder, as  
2 each second goes by, I don't know what he's  
3 thinking for the next second until he actually  
4 does something, and when he raised his gun up to  
5 his shoulder, I was forced to protect my partner's  
6 life.

7 Q. So my question was, how did you use  
8 your worry that he -- you didn't know what he was  
9 thinking to justify shooting him?

10 MS. DINEHART: Objection.

11 THE WITNESS: Again, when I have an  
12 individual that's holding a firearm and I have no  
13 idea what he's getting ready to do and he's not  
14 listening to the commands to drop the firearm,  
15 numerous commands to drop the firearm, and he  
16 continues to do what he wants to do and then seeks  
17 out my partner in a mirror and raises the gun up  
18 toward his shoulder in the direction of my  
19 partner, it forces me to act.

20 BY MS. BRANCH:

21 Q. When you gave any of your commands to  
22 put the gun down, did you notice that Dontae  
23 Martin responded to your command?

24 A. I noticed that he didn't respond to  
25 my commands.

1 Q. Did you ever notice that he did  
2 respond?

3 A. No, he never responded to my  
4 commands.

5 Q. And you said that Officer Haas was  
6 giving commands but you don't recall what they  
7 were?

8 A. No, I said I had no idea what he was  
9 saying.

10 Q. And do you know if your commands were  
11 consistent with each other or inconsistent?

12 A. Again, I have no idea what he said.  
13 No idea what commands he was saying, no idea what  
14 he was saying at all.

15 Q. He was the senior officer at the  
16 scene?

17 A. He's been here longer than I have,  
18 yes.

19 Q. When you got to the scene, did one of  
20 you decide who would be in charge?

21 A. No.

22 Q. Had you had any discussions with him  
23 prior to stepping onto the scene as to who would  
24 be the officer to give commands?

25 A. No.

1 Q. Have you had any training at  
2 Montgomery County to ensure that officers are  
3 giving commands -- when more than one officer is  
4 present, that the commands are being given by one  
5 officer only?

6 A. There are certain situations where  
7 that's ideal; but in my opinion, this was not an  
8 ideal situation where only one person speaks.

9 Q. Have you been given any training at  
10 Montgomery County to ensure that the commands that  
11 are being given if two officers are present that  
12 are both giving commands are consistent with each  
13 other?

14 A. I don't remember any specific  
15 training on how to give commands. You know, in  
16 regards to a man with a gun, other than being loud  
17 and concise to get your point across, you know,  
18 for this type of an incident, you know, to drop  
19 the firearm, that's what we wanted him to do.

20 Q. When you got to the scene at  
21 Springbrook, what did you understand you were  
22 there to do?

23 A. An auto accident.

24 Q. And nobody had gotten out of the car?

25 A. Correct.

1 Q. Was that considered a potential  
2 medical run?

3 A. It could have been, yes.

4 Q. Were you there to investigate to see  
5 whether anybody was injured?

6 A. I don't remember exactly how it was  
7 dispatched. Do we have the dispatch log?

8 Q. We do.

9 A. Can I see it?

10 Q. It's Exhibit 1.

11 (Thereupon, Plaintiff's Exhibit 1,  
12 incident history detail dispatch log, was  
13 previously marked for purposes of identification.)

14 THE WITNESS: This is not -- my  
15 understanding, if I'm looking at this correctly,  
16 this is not my dispatch to the auto accident.  
17 This is the dispatch responding to -- or other  
18 officers coming to our aid from being involved in  
19 a shooting. And the only entries that I'm finding  
20 on here of anything pertaining to the auto  
21 accident are what other officers are typing in  
22 their notes that are attached to the call so I  
23 would have to hear the dispatch or do you have  
24 another exhibit or something?

25 BY MS. BRANCH:

1 Q. Does this refresh your memory that  
2 you were responding to an unknown accident with  
3 two vehicles, a green car and a maroon Grand Prix  
4 with tinted windows, nobody has gotten out?

5 A. Some of it does, some of it doesn't  
6 so I -- without giving an answer to it, I'd rather  
7 see the actual dispatch to the auto accident or if  
8 you have the audio or something that I could  
9 listen to on what we heard that day.

10 Q. Have you heard the audio of the  
11 dispatch run?

12 A. I have -- not since that original  
13 day.

14 Q. Did you listen to it that day after  
15 it was -- the shooting was over?

16 A. No.

17 Q. You never heard it?

18 A. Not that I remember.

19 Q. So why do you think that would  
20 refresh your memory?

21 A. Because you're asking me what I was  
22 dispatched to and that's how they dispatched us.

23 Q. Sitting here today, did you think you  
24 were being dispatched to a crime scene?

25 A. Everything is different, ma'am. I

1 have no idea what I was dispatching -- if I knew  
2 what I was dispatched to, I could answer that  
3 question for you.

4 Q. And other than you say that there's a  
5 dispatch log for the auto accident that's not this  
6 Exhibit 1?

7 A. I'm not saying -- this isn't -- I'm  
8 not saying that this isn't the actual dispatch  
9 log. If it is, it's -- what's the word I'm  
10 looking for here? Unfortunately, we've changed  
11 systems since the shooting to today, and the type  
12 of call that we're going on, you know, it's saying  
13 in here that it's a -- never mind. I do see it  
14 right here. Accident, unknown injuries. I was  
15 looking at the officer down, the 99 earlier. So,  
16 yes, it's an accident, unknown injuries.

17 Q. If you look at the top of page one of  
18 Exhibit 1 above the line --

19 A. Page one?

20 Q. -- it says type --

21 A. Yes.

22 Q. -- ACCUNK, accident unknown?

23 A. Yes.

24 Q. And it was changed to a priority one,  
25 officer down call?

1 A. Correct.

2 Q. Okay. If you go to the next entry at  
3 43:31. Do you see that?

4 A. Yes.

5 Q. The dispatcher typed two vehicle  
6 accident. Vehicle one, green car parked, vehicle  
7 two, maroon Grand Prix, tinted windows, nobody has  
8 gotten out. Do you see that?

9 A. Yes, I do see that.

10 Q. Okay. Was that the information you  
11 had before you came to the scene?

12 A. I believe so.

13 Q. And that's the same information that  
14 would be on your MDT, computer screen in your  
15 vehicle?

16 A. I'm trying to remember how it was  
17 done in the old system. I don't -- I don't  
18 remember this information coming across our  
19 computers. Basically where it says red -- in red  
20 it says priors, you have a line under that. I  
21 don't remember that information being under the  
22 dispatch or how it's dispatched under it. Again,  
23 we've changed things.

24 (Thereupon, Plaintiff's Exhibit 14,  
25 two colored photographs, was previously marked for

1 purposes of identification.)

2 BY MS. BRANCH:

3 Q. Could you turn --

4 A. Okay.

5 Q. I'm sorry -- to Exhibit 14. It's a  
6 two-page exhibit of photographs, two photographs.

7 A. I don't have a 14.

8 Q. Here it is. It's under Tab 13. So  
9 the first page of Tab 14, just to orient you, is  
10 that an MDT computer screen in your vehicle?

11 A. I don't know if this is my vehicle,  
12 but yes, it's -- now that I'm looking at it, it  
13 does look familiar.

14 Q. Okay.

15 A. I actually think this is out -- if  
16 memory serves me correctly, I believe this is out  
17 of Deputy Haas' car.

18 Q. Can you tell from the exhibit which  
19 terminal was photographed?

20 A. If you look at the bottom of the  
21 picture, you'll see the little blue block  
22 surrounded by black, to the right of it looks like  
23 it says HAR 121, which would be Harrison 121 --

24 Q. I see.

25 A. -- which was Deputy Haas' vehicle.



1 Q. And does this MDT depict the same  
2 words we just looked at on Exhibit 1 under the  
3 entry at 43:31?

4 A. Yes.

5 Q. Was this the information you had then  
6 prior to arriving at the scene and getting out of  
7 your vehicle?

8 A. Yes, ma'am.

9 Q. All right. In responding to an  
10 unknown vehicle accident, nobody has gotten out,  
11 would you consider that a call that potentially  
12 could be for medical assistance for someone inside  
13 the vehicle?

14 A. Yes, it could be.

15 Q. All right. And while we're on  
16 Exhibit 14, there's a second photograph.

17 A. This one?

18 Q. Yes.

19 A. Okay.

20 Q. And that's a photograph of your  
21 vehicle parked behind Officer Haas' vehicle parked  
22 behind the Grand Prix; is that right?

23 A. Correct.

24 Q. Does that accurately show the  
25 position of your vehicles at the night of the --

1 the time of the shooting?

2 A. Yes.

3 Q. Would you agree with me that the  
4 lighting that we see in this photograph was not  
5 present at the time of the shooting?

6 A. Correct.

7 Q. The only lights that would have been  
8 visible here would be -- at the time of the  
9 shooting would have been your headlights of your  
10 vehicle and Officer Haas' vehicle?

11 A. Yes, and there was a -- there was a  
12 house just -- actually, you can -- I believe this  
13 is -- that looks more like a lamp, but there was a  
14 house that was just past the maroon car that had  
15 the -- I think it was a front porch light and  
16 stuff on, but, yeah, it pretty much depicts what  
17 we can see there.

18 Q. Would you agree that that night it  
19 was dark?

20 A. Yes.

21 Q. And the closest streetlight was  
22 twenty-two yards away?

23 A. I have no idea where the closest  
24 streetlight was.

25 Q. Do you remember seeing a streetlight?

1 A. No.

2 Q. Would you agree because of the tinted  
3 windows, that when you got out of your vehicle,  
4 you could not see into the windows of the Grand  
5 Prix?

6 A. When I got out of my vehicle, yeah, I  
7 could not see into the vehicle.

8 Q. And, in fact, it wasn't until you  
9 were three feet away with your flashlight shining  
10 through the back passenger door window that you  
11 could for the first time see into the Grand Prix?

12 A. I don't remember exactly how far I  
13 was or when I could first see into the vehicle,  
14 but I was close.

15 Q. Were you close enough to touch the  
16 vehicle when you first could see into it?

17 A. No.

18 Q. When you arrived at the scene, your  
19 sirens and lights had never been on on the vehicle  
20 activating your audio and video equipment; is that  
21 correct?

22 A. Not while responding to this, no.

23 Q. Okay. At any time did you activate  
24 your microphone?

25 A. Not for the incident, no.

1 Q. How about after the incident?

2 A. No.

3 Q. Did you consider turning your  
4 microphone on at any point?

5 A. No.

6 Q. Before you got out of your vehicle  
7 did you turn on your spotlight?

8 A. I don't remember turning it on.

9 Q. Was it on at any time that evening?

10 A. I don't remember turning it on.

11 Q. Was the Grand Prix -- the windows  
12 were up on the car; is that right?

13 A. Yes.

14 Q. And its headlights were on but they  
15 were so close to the green car that they weren't  
16 really illuminating anything; is that right?

17 A. I don't remember if they were on or  
18 not.

19 Q. Was the engine on in the Grand Prix?

20 A. I don't know.

21 Q. When you first got out of your  
22 vehicle, what was the discussion that you had  
23 with -- I'm sorry, not when you got out of your  
24 vehicle. Strike that.

25 At what point did you talk with

1 Deputy Haas about what the plan would be for  
2 exiting your vehicle and approaching the Grand  
3 Prix?

4 A. There was no plan.

5 Q. Did you talk to Deputy Haas before  
6 you approached the vehicle?

7 A. The last time I had talked to Haas  
8 before this incident was while we were on the drug  
9 complaint that I initiated over off of whatever  
10 street that was. I can't remember.

11 Q. And did you talk about how you were  
12 going to approach the run to Springbrook?

13 A. No.

14 Q. Did you talk to Deputy Haas about  
15 what you were planning to do before shots were  
16 fired?

17 A. No.

18 Q. So the two of you did not converse  
19 about the run before shots were fired?

20 A. No.

21 Q. What was your plan when you arrived  
22 on scene?

23 MS. DINEHART: Objection.

24 THE WITNESS: Conduct an  
25 investigation, take care of anybody that might be

1 injured. You know, I didn't mentally sit back and  
2 say this is what I'm going to do. Again, in  
3 police work, we don't have the opportunity to sit  
4 down and plan out our day. We plan out the  
5 incident as it happens, you know, so there was no  
6 plan to -- on who was going to do what, what was  
7 going to happen. Unfortunately, we found  
8 ourselves on the scene of a guy who had a firearm  
9 in his hand and he refused to obey our commands to  
10 drop that firearm and, unfortunately, he pointed  
11 the firearm at Deputy Haas and I was forced to  
12 protect his life.

13 BY MS. BRANCH:

14 Q. When you got to the scene, Officer  
15 Haas had already arrived; is that right?

16 A. It was -- you know, we were pretty  
17 much simultaneously arriving at the scene.

18 Q. According to the dispatch log, you  
19 arrived about fifty seconds after him. Does that  
20 sound about right?

21 A. Yeah, I don't know. It didn't seem  
22 that long, but, you know, it could have been.

23 Q. According to the dispatch log, you  
24 arrived at forty-five minutes and two seconds  
25 after midnight. Does that sound right?

1           A.    I have no idea what time I was on  
2 scene.

3           Q.    Do you -- how did you put yourself on  
4 scene?

5           A.    I don't remember if I pushed the  
6 button or used the radio or even if I went on  
7 scene. I have no idea.

8           Q.    And what is your practice for going  
9 on scene in a nonemergency? Do you push your  
10 button or call dispatch?

11          A.    Whatever I do. Sometimes I push the  
12 button. Sometimes I get on the radio and tell  
13 them I'm on scene.

14          Q.    If it's not on the radio traffic that  
15 you're on the scene, is it fair to assume that you  
16 pushed your button?

17          A.    In general it is, but, you know,  
18 there are times that, you know, I've been on the  
19 scene and realized I never pushed the button or  
20 got on the radio and put myself on the scene.

21          Q.    If the shooting occurred at forty-six  
22 minutes after midnight and you're on scene -- I'm  
23 sorry, I read the wrong entry. You were on scene  
24 at forty-five minutes and fifty-four seconds  
25 according to the dispatch log.

1           A.     What exhibit is this so I can  
2 refresh --

3           Q.     Exhibit 1.

4           A.     Okay.

5           Q.     It's about two-thirds of the way down  
6 the first page.

7           A.     Okay.

8           Q.     45:54?

9           A.     45:54. That shows the time I was on  
10 scene based off of the paperwork here.

11          Q.     Okay. And if there's no radio  
12 traffic with you calling dispatch to say you were  
13 on the scene, is it fair to assume you pushed your  
14 button at 45:54?

15          A.     You know, it could have been.  
16 There's so many different variables on when  
17 somebody could have put me on scene based off of  
18 the computer system. I don't know if I pushed a  
19 button. I don't know if it was radio traffic. I  
20 don't know if it was -- you know, I don't know  
21 what Deputy Haas' radio traffic was, if he had any  
22 on, and, you know, she automatically put me on  
23 scene, I don't know. I don't know when or how or  
24 what that night -- unfortunately, how I -- how a  
25 computer shows that I'm on scene.



1 Q. Do you have any reason to dispute  
2 that you were there at 45:54?

3 A. I don't have any reason --

4 MS. DINEHART: Objection.

5 THE WITNESS: -- to dispute it.

6 BY MS. BRANCH:

7 Q. When you got on scene, where was  
8 Officer Haas?

9 A. As I was on scene, I don't know  
10 exactly where he was. The only thing that, you  
11 know, really resonates in my mind is around the  
12 time I was exiting my car, and I don't remember if  
13 it was just as I was exiting or just after I  
14 exited, but it was somewhere in that time frame,  
15 you know, Deputy Haas was -- I could hear Deputy  
16 Haas telling me that he had a gun.

17 MS. BRANCH: Could you read back that  
18 answer for me?

19 (Record read.)

20 BY MS. BRANCH:

21 Q. So if we go back to Exhibit 14, which  
22 in your book is under Tab 13, and you see the  
23 vehicles -- the photograph of the vehicles --

24 A. Yes.

25 Q. -- when you were exiting your car,

1 you were exiting in the car behind the sheriff's  
2 car two car lengths back from the Grand Prix?

3 A. Yeah, I'm the -- my patrol car is the  
4 one that's closest to the camera.

5 Q. And Officer Haas, was he standing --  
6 at the time you heard him say he has a gun, was he  
7 standing close to the driver's side of the Grand  
8 Prix?

9 A. Yes.

10 (Thereupon, Mr. Mazer exited the  
11 room.)

12 BY MS. BRANCH:

13 Q. So he was several yards in front of  
14 you?

15 A. Yeah. You see the distance. I don't  
16 know what the exact distance was, but yeah.

17 Q. All right. And when you heard him  
18 say he has a gun, where were you standing?

19 A. You know, again, I was somewhere on  
20 that -- near the front of my vehicle. I don't  
21 know if it was just outside my door or -- you  
22 know, near the front of my vehicle is about as  
23 good as I could get you.

24 Q. All right. And at that point had you  
25 already pulled out any equipment? I'm sorry, that

1 was a bad question.

2 Before you heard him say he's got a  
3 gun had you pulled out any equipment?

4 A. I don't -- I may have had my  
5 flashlight out.

6 Q. And then after he said he has a gun  
7 did you draw your firearm?

8 A. Yeah, at some point after that.

9 Q. And what did you do?

10 A. I made a tactical approach to the  
11 passenger side of Dontae's car.

12 Q. So at the time you approached the  
13 Grand Prix you had your -- both your flashlight  
14 and your firearm?

15 A. Correct.

16 Q. And you had your flashlight in your  
17 left hand, firearm in your right hand?

18 A. Yes.

19 Q. And then what did you do as you  
20 approached the Grand Prix?

21 A. Began ordering Dontae to drop the  
22 firearm. Again, I don't remember how many times I  
23 ordered him; but I moved in closer to Dontae to  
24 get a better vantage point of being able to see  
25 what he was doing on the inside and to put myself

1 in a position to safely protect my partner and the  
2 community.

3 Q. And as you moved in closer, at some  
4 point you got close enough that your flashlight  
5 lit up the inside of the vehicle; is that right?

6 A. Yes.

7 Q. So at the point where you could see  
8 inside the vehicle, that moment, where was Deputy  
9 Haas?

10 A. I have no idea where Deputy Haas was.

11 Q. When did you first realize where  
12 Deputy Haas was during the incident?

13 A. There was a couple times I could see  
14 him out of my peripheral kind of moving back and  
15 forth. He was toward the driver's side of the  
16 vehicle, but I couldn't give you an exact  
17 location.

18 Q. Did you ever make eye contact with  
19 Deputy Haas?

20 A. No.

21 Q. Before the shooting?

22 A. No.

23 Q. Did you call out to him?

24 A. No.

25 Q. Was -- were you conscious of where

1 Deputy Haas was after you drew your firearm so  
2 that you wouldn't shoot him?

3 A. I would -- I was going to say I'm  
4 conscious to the point that I know he's not in  
5 front of me or he's not in an area that should I  
6 fire my weapon, that he is in danger of my rounds.

7 Q. Okay.

8 A. But as far as -- I was conscious to  
9 the location that he wasn't in a vital spot for  
10 me.

11 Q. Was Deputy Haas ever in your line of  
12 fire?

13 A. No.

14 Q. So it sounds like it just took you a  
15 few seconds to get from your vehicle to the  
16 passenger side rear window of the Grand Prix?

17 A. Yes.

18 Q. And how soon after you arrived did  
19 you fire your weapon?

20 A. I have no idea.

21 Q. How soon after you arrived at the  
22 back of the Grand Prix did Deputy Haas fire his  
23 weapon?

24 A. I have no idea.

25 Q. And when you fired your weapon, you

1 said you shot seven bullets?

2 A. Yes.

3 Q. And how many rounds had Deputy Haas  
4 shot?

5 A. I have no idea.

6 Q. When you got to the -- before you  
7 fired your weapon, did you say anything to anyone?

8 A. Yes.

9 Q. You gave commands to Dontae Martin --

10 A. Correct.

11 Q. -- to put down the gun?

12 A. Yes.

13 Q. Did you give commands to any of the  
14 bystanders?

15 A. Yes.

16 Q. And what did you tell them?

17 A. Get away.

18 Q. And where were they?

19 A. What do you mean where were they?

20 After my orders, before the orders for them to get  
21 away?

22 Q. Let's start with as you -- when you  
23 first noticed bystanders, where did you see them?

24 A. There was -- there was one individual  
25 that was probably, I'll say, ten, fifteen foot in

1 front of the vehicle -- of Dontae's vehicle  
2 standing like in the middle of the road or toward  
3 the roadway, and there were several other -- I  
4 have no idea how many there were, but there were  
5 several other civilians kind of in a front yard,  
6 on a driveway, they were just kind of scattered  
7 about toward the right-hand side or the passenger  
8 side of the vehicle. All of them were out in  
9 front.

10 Q. The one individual that you saw in  
11 the roadway --

12 A. Yes.

13 Q. -- where was that person, if you  
14 could point to on Exhibit 14?

15 A. There's -- you know, with it being so  
16 dark, I couldn't even begin to -- you know, I'd  
17 say wherever that red thing -- whatever that red  
18 thing is to the left of the cruisers, I don't know  
19 what that red thing is, but I would say, you know,  
20 somewhere probably in that area.

21 Q. Okay.

22 (Thereupon, Plaintiff's Exhibit 44,  
23 previously marked Plaintiff's Exhibit 14, was  
24 marked for purposes of identification.)

25 BY MS. BRANCH:

1 Q. I'm going to give you my copy of  
2 Exhibit 14. If you could mark it for me. I'm  
3 going to try a red pen. It may not work since  
4 this is a black photo. But we've marked a copy of  
5 Exhibit 14 and made it Exhibit 44.

6 A. Okay.

7 Q. And if you could put a mark on 44  
8 where you saw the person.

9 A. Okay. Well, now that this one is  
10 obviously a lot lighter in color than this one,  
11 you know, it wouldn't be where the red thing was.  
12 I would say even further back.

13 Q. Do you want to mark the one in the  
14 book?

15 A. No. What I'm saying -- it looked  
16 like it was further up; but in your brighter  
17 picture, it looks like it's directly to the left  
18 of Dontae's car. You know, it's --

19 Q. Could you put -- I just want to see  
20 where you're looking.

21 A. That's fine.

22 Q. I know it's glared. If you need to  
23 hold it up, that's fine.

24 A. You know, I said earlier that it was  
25 next to the red thing. This picture is brighter



1 than this one and from being able to look at the  
2 brighter one, it definitely wasn't where the red  
3 thing was, it was further back; but I don't know  
4 the angles and stuff, you know, so --

5 Q. Could you put a mark, an X, where you  
6 were pointing with the pen as to where the  
7 individual was in the roadway?

8 A. As I just said, I couldn't tell you  
9 because I don't know what the angles are here. It  
10 was a pretty decent angle to the point that from  
11 where I was standing, he would have been in my  
12 line of fire so, you know, not knowing how the  
13 situation was going to go, at the time of this  
14 starting I had no idea how the end result was  
15 going to be, but when I know I've got a guy with a  
16 gun, it's time to clear people away so that nobody  
17 is struck innocently so...

18 Q. Can you mark on Exhibit 44 the  
19 portion of the roadway where you think the  
20 individual was standing?

21 A. Again, no, I can't because I have no  
22 idea where he was based off of this single  
23 dimensional photo. You know, it's a little  
24 difficult to do it.

25 Q. Could you circle the red item that

1 you referred to in your testimony?

2 A. Yeah, I can circle the red item.

3 (Indicating.)

4 Q. Can you put your initials underneath  
5 that?

6 A. (Witness complies.)

7 Q. Thank you. And where were people --  
8 you said that's where bystanders were when you  
9 said get away?

10 A. Yes.

11 Q. And when you said get away --

12 A. Hang on a second. I'm sorry. Are  
13 you referring to the red dot -- or the red circle  
14 is where the bystanders were standing?

15 Q. No. I was just asking you -- the  
16 question I asked you originally was where were the  
17 bystanders before you said get away.

18 A. Okay. There were several of them  
19 scattered out toward the front of the vehicle.

20 Q. You already answered that. I was  
21 going to now ask the next question.

22 A. Oh, okay.

23 Q. When you saw those individuals there  
24 and you said get away, where were you?

25 A. I don't know exactly. I know I was

1 on my approach to the vehicle.

2 Q. And did you see where -- or if  
3 anybody moved after you said get away?

4 A. Yeah, I saw them all moving. You  
5 know, they were scattering about. Where they were  
6 going, I have no idea.

7 Q. And did you see anybody in the  
8 roadway at the time that you shot your weapon?

9 A. Not in front of me, no.

10 Q. When you approached the car, did you  
11 try to open the doors before you shot your weapon?

12 A. No.

13 Q. Did you knock on the windows?

14 A. No.

15 Q. Did Officer Haas try to open the  
16 doors or knock on the windows before he approached  
17 the car?

18 A. No idea.

19 Q. I'm sorry, before he shot his weapon?

20 A. No idea what he did.

21 Q. Do you know how long it was from the  
22 moment that you got out of your car until you were  
23 able to see inside the vehicle?

24 A. No idea.

25 Q. Or how long it was from the time you

1 got out of your car until the time you shot Dontae  
2 Martin?

3 A. No idea.

4 Q. If the whole incident took fourteen  
5 seconds from the time that you got out of your car  
6 until the time you shot, do you think that's about  
7 right?

8 A. It doesn't sound right to me, no.

9 Q. In what way?

10 A. It seems like it's too fast.

11 Q. Why do you think that fourteen  
12 seconds would be too fast?

13 A. It just seems like it would be too  
14 fast to me.

15 Q. Do you recall using your radio to  
16 alert dispatch that you had one with a gun?

17 A. I don't remember if I did it or if  
18 Deputy Haas did it.

19 Q. Did you hear that being broadcast on  
20 the radio?

21 A. No. I don't remember any radio  
22 traffic. I don't -- when you're involved in a  
23 situation like this, my focus goes toward the  
24 safety of myself, my partner, the community, and  
25 to get whatever that issue is in the incident to

1 start complying to our commands, to make it a safe  
2 situation.

3 Q. Did you have any tools with you that  
4 could break the window of a vehicle like if you  
5 needed to rescue somebody inside the car?

6 A. Yeah.

7 Q. What would you be able to use?

8 A. I know our patrol cars are equipped  
9 with special spring-loaded window-break systems,  
10 and I could have used an asp to break out a window  
11 in an emergency situation to rescue someone. I  
12 would imagine I could use, you know, the hard end  
13 of the handcuffs or a larger portion of the  
14 handcuffs if I really needed to get in there and  
15 rescue somebody from a vehicle. I'm sure there's  
16 a vast array that I could come up with inside of  
17 our patrol vehicles.

18 Q. Have you ever had to do that?

19 A. Yes. Unfortunately, the rescue  
20 didn't work.

21 Q. Did you hear Officer Haas say  
22 anything else -- or say anything before you heard  
23 him say gun?

24 A. I don't know what Josh said. I don't  
25 remember hearing what he said. After I heard him

1 say he's got a gun, you know, I went into a  
2 particular focus mode. My senses went into a  
3 focus mode that, you know, from -- you know, the  
4 mind goes into this special focus where things  
5 appear to slow down and you can use super focus,  
6 supernatural -- I don't know how to explain it,  
7 but you begin to focus in on a -- on the issue at  
8 hand, and, you know, I focused in on him holding  
9 that firearm, I focused in on me ordering him to  
10 drop the firearm several times, and then, you  
11 know, continuing to disobey my orders to drop the  
12 firearm until he pointed the firearm in the  
13 direction of Deputy Haas and forced me to protect  
14 his life by firing my weapon. Things that were  
15 said, where people were moving, I don't know  
16 exactly where they were and what they were saying.

17 Q. Did Officer Haas communicate to you  
18 at any time before the shooting?

19 A. Did he do what?

20 Q. Communicate anything to you before  
21 the shooting other than he's got a gun.

22 A. If he did, I don't know.

23 MS. BRANCH: So let's get this marked  
24 as 45.

25 (Thereupon, Plaintiff's Exhibit 45,

1 one colored photograph, was marked for purposes of  
2 identification.)

3 BY MS. BRANCH:

4 Q. This is another photograph of the  
5 Grand Prix from a different angle. Have you seen  
6 this photograph before?

7 A. No.

8 Q. Can you see the bullet holes in the  
9 rear passenger window, the window that doesn't  
10 open?

11 A. I assume they're bullet holes, but,  
12 yes, I see holes in it.

13 Q. Can you tell from this photograph  
14 where you were standing at the time you shot your  
15 weapon?

16 A. I -- again, we're looking at an angle  
17 issue. If it was a -- like a photo from the top  
18 of it, I could probably give you a better -- like  
19 a topographical shot of the scene. I don't even  
20 know if those are available or if we had those;  
21 but, again, I could just say it was near the rear  
22 passenger door and that tire several feet this way  
23 of the car (indicating).

24 Q. This way, what's that mean?

25 A. Toward me. If I'm looking at the

1 car, toward me.

2 MS. BRANCH: I'm going to give you  
3 another exhibit and see if that's a better angle.

4 (Thereupon, Plaintiff's Exhibit 46,  
5 photograph Bates stamped GB003726, was marked for  
6 purposes of identification.)

7 BY MS. BRANCH:

8 Q. In this one do you see the bullet  
9 holes through the rear passenger window?

10 A. Yes.

11 Q. And do you see the bullet hole in the  
12 door?

13 A. Yes.

14 Q. Can you see where you were standing  
15 in this photograph?

16 A. I would say probably -- I can't give  
17 an exact, but I would say in between the tree and  
18 the end of the orange paint, somewhere in that  
19 area.

20 Q. And that's when you were shooting  
21 your weapon?

22 A. That's -- in that area is when I  
23 started shooting my weapon.

24 Q. All right. And when you first  
25 started shooting your weapon, if I understand your



1 testimony, was when you first could see into the  
2 vehicle with your flashlight?

3 A. No.

4 MS. DINEHART: Objection.

5 THE WITNESS: No, I did not start  
6 firing my weapon when I could first see into the  
7 vehicle. I started firing my weapon after I could  
8 initially see into the vehicle and that he was  
9 still holding a firearm and would not obey my  
10 commands to drop the firearm and he pointed it at  
11 Deputy Haas and I had to protect Deputy Haas'  
12 life, that's when I began firing my weapon.

13 BY MS. BRANCH:

14 Q. Okay. Could you put an X with your  
15 initials where you were standing when you fired  
16 the weapon on Exhibit 46?

17 A. I could put an X where I believe I  
18 was standing --

19 Q. Sure.

20 A. -- but I can't say exactly where I  
21 was standing.

22 Q. That's fine.

23 A. (Indicating.)

24 Q. Thank you. And when you approached  
25 the car, you were approaching from off camera of

1 this photograph, correct?

2 A. Yes.

3 Q. You were approaching from behind the  
4 vehicle?

5 A. Yes.

6 Q. And where were you when you could see  
7 into the vehicle and see Dontae Martin?

8 A. You know, somewhere between that X  
9 and the orange paint, somewhere in that area.

10 Q. Could you put a circle at the point  
11 where you were standing when you could see into  
12 the vehicle.

13 A. (Witness complies.)

14 Q. Thank you. Were you ever in a  
15 position further forward than the X in this circle  
16 on Exhibit 46?

17 A. I don't remember being any further  
18 forward.

19 MS. BRANCH: I'm going to make this  
20 47.

21 (Thereupon, Plaintiff's Exhibit 47,  
22 one colored photograph, was marked for purposes of  
23 identification.)

24 BY MS. BRANCH:

25 Q. This angle of the photograph shows

1 that the car was on an incline with the driver's  
2 side of the car being downhill from the passenger  
3 side of the car. Is that correct?

4 A. According to the picture, yes.

5 Q. Was that your memory of the scene?

6 A. I don't remember it being an angle,  
7 but I'm not saying that there wasn't.

8 Q. From this angle do you see that  
9 there's vegetation between the tree and the car?

10 A. Yes.

11 Q. Do you know in that patch of  
12 vegetation how close you were standing?

13 A. Yeah, from this angle, again, it's  
14 very difficult to put where I was standing, but,  
15 you know, if we refer back to 46, that's about the  
16 best view I can give you as to where I was  
17 standing.

18 Q. So 46 has the best angle for figuring  
19 that out?

20 A. Yes.

21 Q. All right.

22 MS. DINEHART: Of the photos she's  
23 shown you, right?

24 THE WITNESS: Yeah. Of the photos  
25 that I've seen, yes.

1 BY MS. BRANCH:

2 Q. Now, you said you could see Dontae  
3 Martin through the back window of the passenger  
4 side move up and down, right?

5 A. Yes.

6 Q. And when you saw him, could you see  
7 the seat he was sitting in?

8 A. You know, I wasn't looking at the  
9 seat. I was looking -- I was focused on the gun.

10 Q. At any point that evening did you  
11 notice the position of the driver's seat?

12 A. No.

13 Q. Did you know that it was reclined?

14 A. No.

15 Q. Did you know -- did you see his head  
16 on the headrest?

17 A. After the shooting was over, yes.

18 Q. How about before the shooting?

19 A. No.

20 Q. Where was his head before the  
21 shooting?

22 A. He was leaning forward, kind of  
23 moving back and forth, looking in his rearview  
24 mirror.

25 Q. Did you -- do you agree with Officer

1 Haas that Dontae Martin's head was on the headrest  
2 before the shooting?

3 MS. DINEHART: Objection.

4 THE WITNESS: I have no idea where  
5 his head was before the shooting from Deputy Haas'  
6 vantage point.

7 I've got to use the restroom again.  
8 Can we have a minute?

9 BY MS. BRANCH:

10 Q. Sure. If you want to take a break.

11 MS. DINEHART: It's 12:40, I don't  
12 know where you are in your --

13 MS. BRANCH: Give me a minute to see  
14 if I'm done with these photos. Go ahead and take  
15 a break and we'll come back and we'll see if we  
16 want to take a lunch break.

17 (Pause in proceedings.)

18 (Thereupon, Plaintiff's Exhibit 7,  
19 Ohio traffic crash report diagram, was previously  
20 marked for purposes of identification.)

21 BY MS. BRANCH:

22 Q. We can finish up this line of  
23 questioning and then we can take a lunch break.  
24 Just thought I would show you Exhibit 7, page two.  
25 Page one is the full version --

1 A. Okay.

2 Q. -- of the crime scene diagram that  
3 was done by the detectives after the shooting.  
4 Have you seen that before?

5 A. No.

6 Q. And then the second page is sort of  
7 an enlargement of a portion of that that shows all  
8 the vehicles on the road and the Grand Prix. Do  
9 you see that?

10 A. Yes.

11 Q. You said you were looking for an  
12 overhead shot. We don't have -- I don't have an  
13 overhead photograph but I have this overhead  
14 diagram. Does that -- looking at that, does that  
15 change your testimony as to where you were  
16 standing?

17 A. No.

18 (Thereupon, Plaintiff's Exhibit 48,  
19 one colored photograph, was marked for purposes of  
20 identification.)

21 BY MS. BRANCH:

22 Q. So this photograph is Exhibit 48.  
23 This is a photo taken by the detectives after the  
24 shooting through the driver's side back rear  
25 window -- door window where you can see the

1 reclined headrest and seat.

2 A. Okay.

3 Q. And on the other side of the vehicle  
4 you can see that small non-movable passenger side  
5 rear window.

6 A. Okay.

7 Q. Do you see that?

8 A. Yes.

9 Q. And do you see the holes in the  
10 window?

11 A. Yes.

12 Q. Does this photograph refresh your  
13 memory of how the seat was reclined at the time of  
14 the shooting?

15 A. No, I don't remember even looking at  
16 the seat so I couldn't tell you.

17 Q. I know later on you were involved  
18 with removing Dontae Martin from the vehicle; is  
19 that right?

20 A. Yes.

21 Q. And when you removed him from the  
22 vehicle, do you recall that the seat was in a  
23 reclining position?

24 A. No.

25 MS. BRANCH: Okay. I can move on or

1 I can take a break, whatever you'd like to do.

2 MS. DINEHART: Let's do the break for  
3 now. You want to take forty-five minutes?

4 MS. BRANCH: Whatever.

5 (Pause in proceedings.)

6 BY MS. BRANCH:

7 Q. Before we took the lunch break I was  
8 asking you about your actions before the shooting  
9 and your position at the time and before the  
10 shooting so I want to go back to that point in  
11 time.

12 You were standing at the passenger  
13 side rear of the Grand Prix at the time that you  
14 discharged your weapon into the vehicle; is that  
15 right?

16 A. Yes, somewhere in that area.

17 Q. Okay. And you told us earlier that  
18 you discharged seven shots of your fourteen that  
19 were in your weapon?

20 A. Yes.

21 Q. Can you tell me what you could see  
22 when you were shooting your weapon into the  
23 vehicle?

24 A. Muzzle flash. You know, it happened  
25 so fast, it was -- I really don't know exactly



1 what I could see. That's kind of what led me to  
2 stop because I could no longer see.

3 Q. When you stopped shooting, what did  
4 you observe?

5 A. I really couldn't see into the  
6 vehicle from where I was at. I know I had to kind  
7 of reposition myself so that I could see into the  
8 vehicle.

9 Q. Moving forward again?

10 A. Yes, moving forward back toward the  
11 car, still on the passenger side. I don't  
12 remember where I was, but at some point as I got  
13 closer I could see Dontae in the car.

14 Q. And what did you see?

15 A. I could see his -- he was laid back  
16 in the driver's seat. I don't remember which  
17 direction he was facing -- his face was facing,  
18 but I could tell he was motionless. I could not  
19 see him moving at all so I just continued  
20 positioning myself to -- until I could see the  
21 weapon or a sign of the weapon or where the weapon  
22 might be at.

23 Q. And where was it?

24 A. It was located -- I seen part of the  
25 weapon on the -- kind of like in between his right

1 thigh and the center console.

2 Q. On the seat?

3 A. I don't remember off the top of my  
4 head. I think it was laying down -- kind of  
5 wedged in between the seat and the center console  
6 with the handle kind of sticking up.

7 Q. And where was -- if the handle was  
8 sticking up, where was the barrel pointed?

9 A. It would be pointed down.

10 Q. And when you saw that, was that the  
11 first thing you saw when you looked into the car  
12 was the gun on the -- between the -- wedged  
13 between the seat and the console?

14 A. No. The first thing I could see was  
15 Dontae.

16 Q. Okay. And then the gun?

17 A. Yeah.

18 Q. Did you see Officer Haas?

19 A. No.

20 Q. What did you do when you saw the gun?

21 A. My concentration was focusing on the  
22 firearm, and, you know, I don't -- I don't  
23 remember if I told Josh that I found the gun or  
24 that I could see the gun, but I remember at some  
25 point after finding the firearm -- or seeing the

1 firearm -- I won't say finding, but after I could  
2 see the firearm, hearing Deputy Haas told me the  
3 doors were locked -- or I think I told -- or kind  
4 of yelled out the gun is between -- by his leg by  
5 the center console, and then Deputy Haas telling  
6 me that the doors were locked.

7 Q. Then what happened?

8 A. I remember checking the doors on the  
9 passenger side. The doors were locked there as  
10 well.

11 Q. What did you do?

12 A. I don't remember what I did other  
13 than focusing on the firearm and focusing on  
14 Dontae's hands, making sure he wasn't going to  
15 reach for the firearm anymore. I waited there,  
16 and at some point the window broke out on the  
17 driver's side of the car, I don't remember which  
18 window it was, but the window breaking out.

19 Q. By Officer Haas?

20 A. I don't know if he's the one that  
21 broke it out or if some other officer arrived on  
22 scene. I just -- my focus was that firearm and  
23 Dontae.

24 Q. And while you were looking inside the  
25 vehicle with your focus on the firearm, was Dontae

1 moving?

2 A. No.

3 Q. And after the window was broken what  
4 happened?

5 A. I remember the driver's side door  
6 opening up at some point.

7 Q. And what were you doing at that  
8 point?

9 A. I was still focused on that firearm,  
10 focused on Dontae.

11 Q. Were you standing still on the  
12 passenger side but now at the front door window?

13 A. I don't remember exactly where I was  
14 standing. I just know I could look in and see the  
15 center console area and by his leg.

16 Q. And where was your flashlight?

17 A. It's in my hand.

18 Q. What were you pointing it at?

19 A. Down toward that firearm and Dontae.

20 Q. So your light was on the firearm in  
21 the vehicle?

22 A. Yes.

23 Q. Okay. The driver's side door opened,  
24 and then what happened?

25 A. I believe it was -- I know when the

1 door opened up, at some point the firearm was --  
2 actually, I take that back. It was -- I can  
3 remember after the door opening up some time had  
4 gone by, it would seem like forever but I know it  
5 was just a matter of seconds, we were trying to  
6 extract -- I say we, it wasn't me. Somebody was  
7 trying to extract Dontae from the car and yelling  
8 out, you know, he's caught, he's stuck, he's  
9 stuck. I can remember running over to the  
10 driver's side and one of his legs was stuck on --  
11 in like the brake and accelerator -- not his leg  
12 but his pant leg was. And I don't remember if his  
13 seat belt was part of the restriction or not. I  
14 don't know if he was wearing a seat belt, but we  
15 could not get him out because something was  
16 holding him in there. And then it was -- whatever  
17 it was holding him in there, it released or I'm  
18 not sure if somebody reached in and released him  
19 or untangled his pant leg or something, but we  
20 pulled him out and -- I say we, it would be Deputy  
21 Bender and I pulled him out and drug him to the  
22 rear of the car where we had a flatter surface to  
23 begin first aid to make every exhaustive chance to  
24 try to save Dontae.

25 Q. And who is the we that tried to

1 extract him? You and Deputy Bender?

2 A. Yes.

3 Q. Anyone else?

4 A. I don't know.

5 Q. Anyone else on scene other than you,  
6 Haas, and Bender?

7 A. I don't know who else was on scene.

8 Q. Was there anyone else?

9 A. I don't know who else was on scene.

10 Q. Do you know if there was anyone there  
11 other than Deputy Bender?

12 A. Again, I do not know who was on  
13 scene.

14 Q. You don't recall anyone other than  
15 Deputy Bender at the time of the extraction of  
16 Dontae Martin?

17 A. Again, ma'am, I do not know who else  
18 was on scene.

19 Q. After he was extracted do you recall  
20 anyone coming on the scene?

21 A. I know Deputy Amber Haas, I don't  
22 know if she was on scene during the extraction or  
23 if she came shortly after I started doing chest  
24 compressions on Dontae.

25 Q. You noticed her during the CPR?

1 A. Yes.

2 Q. Anyone else you noticed while the CPR  
3 was ongoing?

4 A. No.

5 Q. When was -- when were you relieved  
6 from -- well, did you perform CPR?

7 A. I was performing chest compressions.

8 Q. Chest compressions. And how long did  
9 you do that?

10 A. I have no idea exactly. It felt like  
11 forever.

12 Q. And was that with Deputy Bender?

13 A. Yes. Well, Deputy Bender was near  
14 me. I was doing the chest compressions. Deputy  
15 Bender helped me take him out or I helped Deputy  
16 Bender take Dontae out of the car. What Deputy  
17 Bender was doing first aid-wise, I don't know. I  
18 was doing chest compressions.

19 Q. Anybody doing airway?

20 A. I don't know what anybody else was  
21 doing.

22 Q. Anybody doing rescue breathing?

23 A. That would be airway. I have no idea  
24 what they were doing.

25 Q. All right. So, I'm sorry, I

1 interrupted. How long do you think you were doing  
2 chest compressions?

3 A. It would be an estimated time, and I  
4 would say for twenty, thirty seconds or so.

5 Q. And then what happened?

6 A. Amber Haas came over to me and  
7 relieved me of doing chest compressions.

8 Q. And when she relieved you, where did  
9 you go?

10 A. I went and -- I had another person,  
11 and I don't know -- it was an officer, I have no  
12 idea who it was, you know, told me to go over  
13 there and trying to get me away from the medical  
14 attention that was being provided to try to limit  
15 any kind of traumatic experience that I had to  
16 endure from that point on, and he kind of  
17 pointed it would be west on Springbrook. I don't  
18 know how far I went but I would say a couple of  
19 cars behind mine and I sat on the front bumper of  
20 a cruiser.

21 Q. Anybody with you?

22 A. Deputy Haas showed up sometime  
23 after -- after I was sitting there leaning on the  
24 bumper.

25 Q. And did you see any supervisors on



1 the scene before you sat on the bumper?

2 MS. DINEHART: Objection.

3 THE WITNESS: I don't -- I don't  
4 remember seeing a supervisor until later on.

5 BY MS. BRANCH:

6 Q. How about Sergeant McLaughlin?

7 A. I know he was there, but I don't  
8 remember when I saw him arrive on scene -- or when  
9 I saw him on scene.

10 Q. Did he give you any directions or  
11 orders as your supervisor?

12 A. No.

13 Q. And when you were doing chest  
14 compressions, do you know where Deputy Joshua Haas  
15 was?

16 A. No.

17 Q. And do you know what he was doing  
18 before he arrived at the bumper?

19 A. No.

20 Q. Did you ever ask him where he was?

21 A. No.

22 Q. All right. Anything else happen that  
23 you recall before you were told to go over there  
24 and sit on the bumper?

25 A. No.

1 Q. When was the gun retrieved from the  
2 vehicle?

3 A. I don't remember when it was  
4 retrieved.

5 Q. Was it before Dontae Martin was  
6 extracted?

7 A. I don't remember.

8 Q. Would that be something in your  
9 statement?

10 A. It might be.

11 Q. And who actually took the gun out of  
12 the vehicle?

13 A. I don't know.

14 Q. Were you there to see that happen?

15 A. I may have been on scene, but I don't  
16 remember watching it happen.

17 Q. I want to go back now to the  
18 shooting -- the time of the shooting. I had you  
19 after lunch talk about your activities from the  
20 time you fired shots until you sat on the bumper  
21 of the vehicle. When did you notice that Officer  
22 Haas was also firing his weapon?

23 A. I never noticed him firing his  
24 weapon.

25 Q. Who fired first?

1 A. I have no --

2 MS. DINEHART: Objection.

3 THE WITNESS: -- no idea.

4 BY MS. BRANCH:

5 Q. And have you ever asked him what his  
6 opinion is of who fired first?

7 A. No.

8 Q. Sitting here today, do you know who  
9 fired first?

10 A. No.

11 Q. And how's come you haven't asked him  
12 about that?

13 A. It's irrelevant to the fact of this  
14 issue of Dontae not complying with our orders to  
15 drop a firearm. You know, unfortunately, he  
16 failed to comply, pointed the gun at Deputy Haas,  
17 and I was forced to fire to protect his life.  
18 Protect his, mine, the citizens there, and who  
19 fired first is totally irrelevant. The only thing  
20 relevant is the fact that Dontae failed to comply  
21 with the orders and pointed a firearm at a police  
22 officer.

23 Q. Would you agree that if Dontae  
24 Martin -- this is a hypothetical. Would you agree  
25 that if Dontae Martin had been unconscious, that

1 you would not have been justified in shooting him  
2 even if you saw a weapon in the vehicle?

3 MS. DINEHART: Objection.

4 THE WITNESS: Ma'am, I'm a police  
5 officer. I get up and work eight and a half hours  
6 a day, five days on, two days off, five days on,  
7 three days off, and I don't deal in hypotheticals.

8 BY MS. BRANCH:

9 Q. Okay. But as a --

10 A. I deal with every issue at hand.

11 Q. It's a question --

12 A. And every issue is dealt with  
13 differently based off of what is going on at that  
14 moment.

15 Q. Okay. It's a question --

16 A. Okay.

17 Q. -- that I'd like you to answer.

18 A. Okay.

19 Q. If Dontae Martin had been  
20 unconscious, would you have been justified in  
21 shooting him even if you saw a gun in the vehicle?

22 MS. DINEHART: Objection.

23 THE WITNESS: If Dontae Martin had  
24 complied with us, that's the best hypothetical I  
25 can give you, had he not pointed that firearm at

1 Deputy Haas, we wouldn't be sitting here today.  
2 But unfortunately, the hypothetical question that  
3 you're asking I can't answer because I wasn't  
4 there.

5 BY MS. BRANCH:

6 Q. Is it your understanding of the use  
7 of force policy of Montgomery County that you are  
8 justified in shooting an unconscious person?

9 MS. DINEHART: Objection.

10 THE WITNESS: There is nothing that  
11 says that somebody that's unconscious can't be  
12 shot; however -- that I know of. However, without  
13 a specific thing occurring in front of me and  
14 being able to make that decision, I can't give you  
15 that answer because I -- you know, again, every  
16 issue is dealt with differently. I cannot think  
17 of something off the top of my head that would  
18 justify shooting an unconscious person, but you're  
19 also asking a question that's hypothetical that I  
20 need to see it in order for something to happen.

21 BY MS. BRANCH:

22 Q. Do you have training at Montgomery  
23 County on use of force?

24 A. Yes.

25 Q. Are you trained in how to make a

1 threat assessment prior to using deadly force?

2 A. Yeah, that's part of the training.

3 Q. And does your training also include  
4 using live action simulators?

5 A. I believe that's what the FATS  
6 machine is I think is what it's called. I believe  
7 that's what that is. We do scenario-based  
8 training so if that's what you're referring to as  
9 live action, then yes.

10 Q. And in your simulators, have you ever  
11 been given exercises where you are faced with a  
12 person with a gun who is unconscious?

13 A. No.

14 Q. If Dontae Martin did not have a gun  
15 in the vehicle but Officer Haas thought he saw a  
16 gun, would Officer Haas be justified in shooting  
17 Dontae Martin?

18 MS. DINEHART: Objection.

19 THE WITNESS: I can't tell you what  
20 Deputy Haas is going to do.

21 BY MS. BRANCH:

22 Q. So I'll ask it as a hypothetical. If  
23 an officer is mistaken and thought he saw a gun  
24 and shot somebody, would that be a justified  
25 shooting?

1 MS. DINEHART: Objection.

2 THE WITNESS: I'm not going to answer  
3 what another officer is going to do in a  
4 hypothetical question. I don't deal with  
5 hypothetical situations.

6 BY MS. BRANCH:

7 Q. Can you --

8 A. I deal with real life.

9 Q. Can you answer the question if it was  
10 you in a situation where you saw -- or thought you  
11 saw a gun inside a vehicle, would you be justified  
12 in shooting that person if there really hadn't  
13 been a gun inside the vehicle --

14 MS. DINEHART: Objection.

15 BY MS. BRANCH:

16 Q. -- based on your training and  
17 understanding of Montgomery County's use of force  
18 policy?

19 MS. DINEHART: Objection.

20 THE WITNESS: You're giving me a  
21 quick, one sentence, two sentence type of scenario  
22 to try to evaluate. Okay. There are so -- there  
23 is so much more that goes into using force than  
24 just a quick, you know, attorney sitting down in  
25 her office one day and coming up with a quick

1 question to try to see if I'm justified in doing  
2 some shooting. There is a totality of a  
3 circumstance that I have to follow from the moment  
4 I'm dispatched all the way until I clear that call  
5 based off of the things that I do. You keep  
6 asking for a hypothetical situation and I cannot  
7 give you an answer for a hypothetical situation  
8 unless we have a long time for you to sit down  
9 here and try to describe it, and then I don't even  
10 know if I could still give you an answer to that  
11 hypothetical.

12 BY MS. BRANCH:

13 Q. Is one of the circumstances that you  
14 took into account before you fired your weapon at  
15 Dontae Martin the fact that you saw a gun?

16 A. Ask that one more time.

17 MS. BRANCH: Can you just read it  
18 back?

19 (Record read.)

20 THE WITNESS: Yes.

21 BY MS. BRANCH:

22 Q. And if Dontae Martin did not have a  
23 gun, would your perception of him having a gun be  
24 a circumstance that you would have to take into  
25 account?



1           A.     Again, you're going into the ifs and  
2 the hypotheticals. If Dontae Martin had complied  
3 with my orders in the beginning, we wouldn't be  
4 sitting here today --

5           Q.     If he didn't --

6           A.     -- so I can't tell you what would  
7 have happened if Dontae had a gun or didn't have a  
8 gun or not because that was not what happened that  
9 night.

10          Q.     If Dontae Martin did not brandish a  
11 gun in the vehicle, would we be sitting here  
12 today?

13                   MS. DINEHART: Objection.

14                   THE WITNESS: I don't know.

15 BY MS. BRANCH:

16          Q.     Would you --

17          A.     But that's not the case. The case is  
18 the fact that he had a gun --

19          Q.     Would you be justified --

20          A.     -- and he pointed it at my partner.

21          Q.     Would you be justified in shooting  
22 him if Dontae Martin did not have a gun?

23                   MS. DINEHART: Objection.

24 BY MS. BRANCH:

25          Q.     Given all the other circumstances

1 that you testified to.

2 A. Dontae Martin had a firearm,  
3 therefore, that's why he was shot. This has  
4 nothing to do with whether or not if he didn't  
5 have a gun.

6 Q. Well, this is a question about the  
7 extent of your authority to use deadly force. So  
8 given all the circumstances you've testified to,  
9 take one circumstance away, Dontae Martin did not  
10 have a gun, would you be justified in shooting  
11 him?

12 MS. DINEHART: Objection.

13 THE WITNESS: I don't know.

14 BY MS. BRANCH:

15 Q. You don't know under the policies and  
16 training of the Montgomery County Sheriff's  
17 Office?

18 A. If Dontae Martin had not brought a  
19 gun that night, the whole scenario would have  
20 changed. Had Dontae Martin complied with our  
21 orders to drop the firearm, this whole scenario  
22 would have changed.

23 Q. So you would agree that if he didn't  
24 have a gun, you would not have been justified in  
25 shooting him?

1 MS. DINEHART: Objection.

2 THE WITNESS: No. I don't know. I  
3 have no idea.

4 BY MS. BRANCH:

5 Q. Are you experienced with assessing  
6 threat inside a car with tinted windows in your  
7 experience as a law enforcement officer?

8 A. I don't know what is experienced. I  
9 don't know if it's five incidents or five hundred  
10 incidents; but yes, I have dealt with over  
11 twenty-some years in law enforcement dealing with  
12 people with tinted windows.

13 Q. And have you had experience looking  
14 into -- trying to look through a tinted window in  
15 the dark, the light at night situation?

16 A. Yes.

17 Q. And have you had experience in using  
18 a flashlight in that situation?

19 A. Yes.

20 Q. And in your experience, have you ever  
21 seen a reflection of an image in the tinted window  
22 when a flashlight is shown on the window?

23 A. I'm not saying I've never seen a  
24 reflection in the window, but my focus is inside  
25 the vehicle. You know, I've dealt with many of

1 cases where an individual has had tinted windows,  
2 but I've never dealt with an individual with  
3 tinted windows who's pointed a firearm at another  
4 police officer after being told to put the firearm  
5 down.

6 Q. Well, my question was if you've ever  
7 seen in your twenty-some years of experience a  
8 reflection in a tinted window when you're using a  
9 flashlight?

10 A. You know, I never made it a mental  
11 note to remember, so no, I don't remember ever  
12 seeing reflections of things inside a tinted  
13 window when I've shined my light on it.

14 Q. Have you been trained to avoid a  
15 reflection when using a flashlight on a tinted  
16 window?

17 A. Not that I'm aware of.

18 Q. Are you aware at what angle a  
19 reflection will occur when using a flashlight on a  
20 tinted window in the dark?

21 A. No.

22 Q. Do you know of any other officers who  
23 have ever experienced a reflection in a tinted  
24 window with a flashlight?

25 MS. DINEHART: Objection.

1 THE WITNESS: No.

2 (Thereupon, Plaintiff's Exhibit 49,  
3 one colored photograph, was marked for purposes of  
4 identification.)

5 BY MS. BRANCH:

6 Q. So you've been handed Exhibit 49.  
7 This is a photograph taken by the sheriff's  
8 department during their investigation of Dontae  
9 Martin's car at the garage. From this angle can  
10 you see bullet holes in the rear window?

11 A. Yes.

12 Q. And can you see the bullet hole in  
13 the door of the back passenger side door?

14 A. Yes.

15 Q. And you see the dowel rod that's  
16 sticking out?

17 A. Yes.

18 Q. Can you tell from this photograph if  
19 that -- what the flight path was of your bullets  
20 through that window?

21 MS. DINEHART: Objection.

22 THE WITNESS: No.

23 BY MS. BRANCH:

24 Q. Has anyone asked you to go to the  
25 vehicle and attempt to recreate where you were

1 standing?

2 A. No.

3 Q. Has anyone asked you to go to any  
4 vehicle and try to recreate what happened that  
5 night?

6 A. No.

7 Q. Has anyone asked you to attempt to  
8 see through a window -- a tinted window with your  
9 flashlight in a dark situation --

10 A. No.

11 Q. -- to try to recreate the scene?

12 A. No.

13 Q. Do you see in this photograph how the  
14 light is reflecting on the tinted window and you  
15 can see a person's face in the window?

16 A. Yes.

17 Q. Is that similar to a reflection  
18 you've seen in a tinted window --

19 MS. DINEHART: Objection.

20 BY MS. BRANCH:

21 Q. -- in your experience as a law  
22 enforcement officer?

23 MS. DINEHART: Objection.

24 THE WITNESS: In my experience  
25 over -- yeah, I've seen reflections in windows

1 before.

2 BY MS. BRANCH:

3 Q. In tinted windows?

4 A. Yeah, I've seen reflections in tinted  
5 windows.

6 Q. In the light and in the dark?

7 A. Most of my -- that I can think of  
8 really seeing reflections would be during the  
9 daytime, you know, when the sun is angled on it I  
10 guess just right or a nice shiny car. This is a  
11 very nice shiny car so -- in an extremely well lit  
12 area, but, yeah.

13 Q. Have you seen a reflection in a  
14 tinted window in the dark?

15 A. I don't remember anything specific of  
16 seeing a reflection in the dark.

17 Q. It wouldn't surprise you to know that  
18 tinted windows reflect in the light or in the  
19 dark?

20 MS. DINEHART: Objection.

21 THE WITNESS: No, it wouldn't  
22 surprise me.

23 MS. BRANCH: We'll mark Exhibit 50.

24 (Thereupon, Plaintiff's Exhibit 50,  
25 photograph Bates stamped GB003777, was marked for

1 purposes of identification.)

2 BY MS. BRANCH:

3 Q. Does Exhibit 50 show approximately  
4 where Dontae Martin was when you were performing  
5 chest compressions?

6 A. Yes, I would say approximately.

7 Q. And how long did it take you to  
8 extract him from the vehicle and lay him in the  
9 grass there?

10 A. A couple seconds.

11 Q. In this picture there's a red object  
12 in the grass. Do you see that?

13 A. Yes.

14 Q. Is that some sort of lighting  
15 device -- portable lighting device?

16 A. That's what it looks like to me.

17 (Thereupon, Plaintiff's Exhibit 51,  
18 oath of office, was marked for purposes of  
19 identification.)

20 BY MS. BRANCH:

21 Q. You've been handed Exhibit 51. Is  
22 this your oath of office that you signed?

23 A. It looks like it, yes.

24 Q. Is that your signature three lines  
25 from the bottom?



1 A. Yes.

2 Q. And you swore that you would support  
3 the Constitution of the United States and the  
4 Constitution of the State of Ohio, and that you  
5 would faithfully discharge the duties of deputy  
6 sheriff of Montgomery County, Ohio during your  
7 continuance in office; is that right?

8 A. Yes.

9 Q. And with each sheriff you are  
10 required to sign a new oath of office; is that  
11 right?

12 A. Yes.

13 Q. This is the one you signed with  
14 Sheriff Plummer?

15 A. Yes.

16 Q. Are you trained in knowing what the  
17 Constitutional duties are of being a deputy  
18 sheriff in Montgomery County as it relates to  
19 using deadly force?

20 A. Yes, we're trained on those duties.

21 Q. And what are they?

22 A. Do you have a copy of the  
23 Constitutional rights for deadly force so I can  
24 relate to those? It would make me feel more  
25 comfortable in answering the question.

1 Q. Well, it's the Fourth Amendment to  
2 the Constitution. I don't have a copy of the  
3 Constitution.

4 A. Neither do I.

5 Q. So do you know what your training is  
6 to make sure that you comply with the Constitution  
7 of the United States when you're using deadly  
8 force?

9 A. Yeah.

10 Q. And what are those duties?

11 A. You're asking me a question, but, you  
12 know, the Constitution, the Fourth Amendment is a  
13 lengthy one, I'd like to refer to it if you have  
14 it.

15 Q. Do you know what your requirements  
16 are or prohibitions are in using deadly force as a  
17 police officer?

18 MS. DINEHART: Objection.

19 THE WITNESS: You're asking a  
20 question that's a relatively long answer to it.  
21 You know, I can give you a summary-type situation,  
22 but I would prefer to have it with me so I can  
23 give you the full answer.

24 BY MS. BRANCH:

25 Q. What is the it you would like?

1 A. I'm sorry, say it again.

2 Q. You said that you would like to have  
3 it with you. What's the it that you're referring  
4 to?

5 A. The Fourth Amendment.

6 (Thereupon, Plaintiff's Exhibit 51,  
7 use of force policy read and sign for Gust A.  
8 Teague, was marked for purposes of  
9 identification.)

10 BY MS. BRANCH:

11 Q. Can you tell me what Exhibit 52 is?

12 A. It's a signature stating that I have  
13 read and understand the Montgomery County  
14 Sheriff's Office policy regarding the use of force  
15 as outlined in the Montgomery County Sheriff's  
16 Office General Manual, Section 1.1.3.

17 (Thereupon, Plaintiff's Exhibit 2,  
18 use of force policy, was previously marked  
19 for purposes of identification.)

20 BY MS. BRANCH:

21 Q. And is that Exhibit 2 in the exhibit  
22 book?

23 A. 2? Yes, that's what it looks like.

24 Q. On page -- on the third page of the  
25 exhibit, number 1600, there's the use of force

1 policy at 1.1.3. Do you see that?

2 A. Yes.

3 Q. Do you agree that the Montgomery  
4 County Sheriff's Office recognizes and respects  
5 the value and special integrity of human life. In  
6 vesting law enforcement officers with the lawful  
7 authority to use force to protect the public  
8 welfare, a careful balancing of all human  
9 interests is necessary. Is that right?

10 A. That's what it says.

11 Q. And do you agree that part of that  
12 balancing is taking into account, as you call it,  
13 the totality of the circumstances before taking a  
14 human life?

15 A. Yes.

16 Q. If you look at the next page under  
17 item 6, the sheriff's office strongly encourages  
18 employees to use physical force only when the  
19 situation absolutely demands it. Is that right?

20 A. Yes.

21 Q. And a few sentences down it says if a  
22 safe alternative to the use of deadly force is  
23 likely to achieve the purpose of averting an  
24 imminent danger, deadly force is not necessary; is  
25 that correct?

1 A. Yes, that's what it says.

2 Q. And one of the things -- one of the  
3 relevant factors to consider is the availability  
4 of cover, and that cover provides a tactical  
5 advantage that works both ways; is that right?

6 A. You lost me in that part right there.  
7 I don't see it.

8 Q. Oh. Second bullet point under --

9 A. Oh, okay.

10 Q. -- relevant.

11 A. Now ask that again, please. I'm  
12 sorry.

13 Q. One of the things you should consider  
14 before taking a human life is the availability of  
15 cover, and that cover is a tactical advantage that  
16 can work in your favor; is that right?

17 A. That's what this says, but I would  
18 need to read the entire paragraph to make sure I'm  
19 not missing something in there.

20 Q. If you could turn to page 16 --

21 A. Ma'am, you asked me a question. Do  
22 you want me to read this and answer the question?

23 Q. Oh, I thought you did.

24 A. No, I said I'd need to read this so I  
25 could fill in the answer to the question that you

1 asked about the availability of cover.

2 Q. Is cover something you're trained to  
3 utilize --

4 A. Yes.

5 Q. -- before using deadly force?

6 MS. DINEHART: Objection.

7 THE WITNESS: I just read a little  
8 sentence in here, this is why I didn't want to  
9 answer you before, the agency follows the action  
10 response use of force. The employee must use the  
11 continuum as a guideline whenever force is used.

12 BY MS. BRANCH:

13 Q. You can read silently to yourself and  
14 I'll have the question read back and you can  
15 answer it again. Let me know when you're done  
16 reading the policy.

17 A. It's the third or fourth sentence in  
18 here that says nothing in this directive is to be  
19 construed to require -- you know, this is not a  
20 situation where we could take cover and wait for  
21 something else to happen. This was a situation  
22 where he pointed the firearm at another police  
23 officer and it was necessary -- necessary for me  
24 to protect Deputy Haas' life by firing my weapon.

25 Q. Would you agree that it's the policy

1 of the Montgomery County Sheriff's Office and that  
2 you're trained to consider using cover prior to  
3 using deadly force?

4 A. It's a guideline. It's not required.

5 Q. Uh-huh. And did you consider using  
6 cover before approaching the vehicle with your  
7 weapon drawn?

8 A. Yes, I used cover.

9 MS. DINEHART: Objection.

10 BY MS. BRANCH:

11 Q. And how did you use cover?

12 A. The body of the vehicle was cover.  
13 The tree -- excuse me. The tree was cover.

14 Q. And did you consider having Officer  
15 Haas use cover when he said that he saw a gun?

16 MS. DINEHART: Objection.

17 THE WITNESS: I can't tell Deputy  
18 Haas what to do, how to take his cover. He has a  
19 total different vantage point than I do. I make  
20 assessments for myself. I don't make them for  
21 other officers.

22 BY MS. BRANCH:

23 Q. At the point in time that you  
24 realized that Officer Haas believed he saw a gun,  
25 what were your options?

1 A. To make a --

2 MS. DINEHART: Objection.

3 THE WITNESS: To make a tactical  
4 approach, utilize cover as part of that tactical  
5 approach, to observe what was going on inside the  
6 vehicle, give directives, try to persuade the  
7 individual, who later was identified as Dontae, to  
8 obey our commands, and in each one of those steps  
9 he failed to do -- failed to obey those commands,  
10 to drop the firearm, and then he unfortunately  
11 went to the next level by pointing that firearm at  
12 a police officer.

13 BY MS. BRANCH:

14 Q. I was asking about your options. Did  
15 you also have the option to call for backup?

16 MS. DINEHART: Objection.

17 THE WITNESS: To call for backup.  
18 You know, I know that we was -- it was announced  
19 over the radio, I'm not sure if it was me or if it  
20 was Deputy Haas, that we had a guy with a gun.  
21 That is not a situation where I get on and ask for  
22 backup. It's pretty much a known -- I'm not sure  
23 what the right words are, but it's known amongst  
24 law enforcement officers that if somebody else  
25 gets on the radio and says they have somebody with



1 a gun, if you're close, go because he needs help.

2 BY MS. BRANCH:

3 Q. So at the time that dispatch was told  
4 that there was a gun, did you just assume that  
5 backup was on its way?

6 A. Yes.

7 Q. At the time that you heard that  
8 Deputy Haas believed there was a gun, did you tell  
9 Deputy Haas that he should seek cover?

10 A. No.

11 MS. DINEHART: Objection.

12 BY MS. BRANCH:

13 Q. Did you tell Deputy Haas he should  
14 retreat --

15 A. No.

16 Q. -- and come back to the vehicle where  
17 you were?

18 A. (Witness shaking head from side to  
19 side.)

20 (Thereupon, Plaintiff's Exhibit 53,  
21 Deputy Gust Teague's statement, was marked for  
22 purposes of identification.)

23 BY MS. BRANCH:

24 Q. You're being handed Exhibit 53. Do  
25 you recognize this?

1 A. Yes. This looks like my statement on  
2 the night.

3 Q. And have you read that recently?

4 A. Not been very recent but it's been a  
5 good while back.

6 Q. Do you need to read it again before I  
7 ask you questions about it?

8 A. I'll go ahead and read it and then  
9 refer back to it during questioning.

10 MS. BRANCH: So we'll take a break  
11 when you read it and then just let me know when  
12 you're done.

13 THE WITNESS: We'll take a break.  
14 Are we taking a break?

15 BY MS. BRANCH:

16 Q. I'm taking a break so you can read it  
17 and do whatever else you would like to do. Just  
18 let me know when you come back, after you're done  
19 reading it, we'll go back on the record.

20 A. Oh. If you want to stay on the  
21 record, we can stay on the record. I just figured  
22 if you guys were taking a break, we'll all just  
23 take a break. Okay.

24 Q. Is your statement accurate?

25 A. Yes.

1 Q. Is there anything you'd like to add  
2 to it?

3 MS. DINEHART: Objection.

4 THE WITNESS: No.

5 BY MS. BRANCH:

6 Q. Is there anything that you would like  
7 to change?

8 A. No.

9 Q. Do you recall saying to Dontae  
10 Martin -- or directing Dontae Martin to put his  
11 hands in the air?

12 A. I don't remember it today, but based  
13 off my report it says I did.

14 Q. Did you also tell him to drop the  
15 gun?

16 A. Yes.

17 Q. Any other commands that you gave?

18 A. No. Drop the gun.

19 Q. In your statement, first page,  
20 paragraph five, last sentence it says I  
21 immediately notified dispatch to give us the  
22 channel because we have one with a gun.

23 A. Okay.

24 Q. Is that accurate, that you're the one  
25 that called dispatch and said we have one with a

1 gun?

2 A. That's what my report says, yes.

3 Q. Two paragraphs below that, last line  
4 of the page, Martin's right hand was also on his  
5 right thigh near the handgun. Did I read that  
6 correctly?

7 A. Yes.

8 Q. So at the point -- the first time you  
9 saw the gun the gun was on his thigh --

10 A. That's what --

11 Q. -- and his hand was on his thigh?

12 A. That's what my report says.

13 Q. Is that right?

14 A. That's what my report says, yes.

15 Q. On the next page there's a quote, you  
16 said sheriff's office, drop the gun. Is that  
17 right?

18 A. Yes.

19 Q. There's no other time in your report  
20 where you identified yourself as sheriff's office.  
21 Is this the only time in your report?

22 MS. DINEHART: Objection.

23 THE WITNESS: Yeah, I've got it  
24 quoted as saying sheriff's office, drop the gun,  
25 but I believe -- I have to go back through and

1 reread it again, but I think it says I made orders  
2 at him several times.

3 BY MS. BRANCH:

4 Q. Let me ask it this way. Is there  
5 anywhere else in your report that you say you  
6 identified yourself as sheriff?

7 A. No.

8 Q. After you said sheriff's office, drop  
9 the gun you wrote Martin appeared to be placing  
10 the handgun back on his thigh. Did I read that  
11 correctly?

12 A. Yes.

13 Q. And the next sentence says, Martin  
14 moved the handgun back to his thigh. Did I read  
15 that correctly?

16 MS. DINEHART: Objection.

17 THE WITNESS: Martin appeared to be  
18 placing the handgun back on his thigh but then he  
19 then raised it a second time approximately six  
20 inches again is what it says.

21 BY MS. BRANCH:

22 Q. And then the next sentence you wrote  
23 Martin moved the handgun back to his thigh and  
24 looked over his shoulder toward Deputy Haas.

25 A. Correct.

1 Q. Is that what you wrote?

2 A. Correct.

3 Q. So in this section of your report  
4 after telling him to put his hands up, you now  
5 tell him to drop the gun, and it appeared to you  
6 as if he was placing the gun back on his thigh at  
7 least two more times?

8 A. Yes.

9 MS. DINEHART: Objection.

10 BY MS. BRANCH:

11 Q. Then in the third paragraph on the  
12 second page you use the phrase I engaged Martin  
13 with my service weapon. Does that mean you shot  
14 him?

15 A. Yes.

16 Q. Two more paragraphs below, toward the  
17 end of that paragraph the sentence starts I  
18 maintained a visual. Do you see where I am?

19 A. Yes.

20 Q. You wrote I maintained a visual on  
21 Martin and the handgun while he broke the window  
22 out. Deputy Haas was able to break the window,  
23 enter the driver's side door, and retrieve the  
24 handgun. Did I read that correctly?

25 A. Yes.

1 Q. So Deputy Haas retrieved the handgun  
2 from the driver's side door before you extracted  
3 Martin from the vehicle; is that correct?

4 A. That's the way that I read this, yes.

5 Q. Is that the way you meant it?

6 A. What I wrote is what I meant, but  
7 you've got to remember this was three years ago --  
8 three and a half years ago so it's a little --

9 Q. Now, at the beginning of that  
10 paragraph you say I requested Deputy Haas to  
11 approach and retrieve the firearm while I  
12 maintained cover for him. Do you see that?

13 A. Yes.

14 Q. So you gave Deputy Haas a direction  
15 to retrieve the firearm while you covered for him;  
16 is that right?

17 A. Yes.

18 Q. Did he follow your direction?

19 A. The report also reads that Deputy  
20 Haas advised me that the doors on the driver's  
21 side were locked. Deputy Haas told me he needed  
22 to break out the window to unlock it from the  
23 inside. It says that I maintained the visual on  
24 Martin while he retrieved the handgun, while he  
25 broke out the window. So, yeah.

1 Q. After the shooting you said you  
2 walked back to the passenger side front to look  
3 for the gun? After you finished shooting --

4 A. Okay.

5 Q. -- you went to the front window to  
6 look for the gun; is that right?

7 A. Okay. Uh-huh.

8 Q. Did you tell Deputy Haas at that  
9 point that you could see the gun?

10 A. Yeah, I'm not sure when I  
11 specifically told Haas I could see the gun.

12 Q. But he knew you had a visual on the  
13 gun?

14 A. Based off of what I told him, yes.

15 Q. And it's your testimony it was in  
16 plain view?

17 A. Yes.

18 Q. Your statement does not mention any  
19 other officers on the scene other than Amber Haas  
20 and Deputy Bender; is that right?

21 A. I saw something in here. I believe  
22 so, yes.

23 Q. And at the point in time that you end  
24 your statement after Amber Haas requested that you  
25 stop compressions so that she could take over, you



1 walked away from the scene. Is that the last act  
2 that you summarized in your statement?

3 A. Yes.

4 Q. And at that point you do not mention  
5 whether Sergeant McLaughlin was on scene; is that  
6 right?

7 A. Correct.

8 Q. This statement says -- if you go back  
9 to the top of the second page and also at the top  
10 of the first page it says draft. Do you see that?

11 A. Yes.

12 Q. Was this your first draft of your  
13 statement, your final draft of your statement?

14 MS. DINEHART: Objection.

15 THE WITNESS: It was a -- this is my  
16 final draft. I don't know why draft is up there.  
17 I don't understand how the reporting system is,  
18 but this was my final statement given.

19 BY MS. BRANCH:

20 Q. Okay. Did you have prior versions  
21 that were drafts?

22 A. Yeah, there were -- there were drafts  
23 that I typed up that I went over with my attorney  
24 and we did some grammatical corrections and things  
25 like that.

1 Q. And was your attorney Robert  
2 Sauter --

3 A. Yes.

4 Q. -- S A U T E R?

5 A. Yes.

6 Q. And did he help you draft your  
7 statement?

8 A. No, he didn't --

9 MS. DINEHART: Objection.

10 THE WITNESS: No, he didn't help me  
11 draft my statement. I drafted my statement and,  
12 you know, the office assisted me with like some  
13 grammatical errors or if they were confused on  
14 something because of improper grammar --

15 BY MS. BRANCH:

16 Q. When you say --

17 A. -- it was corrected.

18 Q. -- the office, do you mean like his  
19 secretarial staff?

20 A. You know, I don't -- I don't know who  
21 worked on things with him so...

22 Q. And where did you type it?

23 A. At work.

24 Q. And were you on administrative leave  
25 at the time you typed it?

1 A. Yes.

2 Q. And how did you have access to your  
3 work computer to type if you were on leave?

4 A. I got in my car and drove to work and  
5 I logged in on the computer and typed it up.

6 Q. And when you logged in, were you  
7 logging into this Investigation 15-6691?

8 A. No. It was done like on Microsoft  
9 Word or something along those lines.

10 Q. And how many drafts do you think you  
11 worked on?

12 A. I think it was just one.

13 Q. Then you had somebody in the  
14 attorney's office review it?

15 A. I gave it to my attorney. I don't  
16 know who reviewed it.

17 Q. And after it was reviewed how many  
18 changes were made?

19 A. How many changes in that report were  
20 made or in that statement was made? I don't have  
21 any idea how many was on there, but there were --  
22 you know, you need a comment here -- or a comma  
23 here, period there, this isn't capitalized, that  
24 is capitalized. I made the corrections, they  
25 looked at it and said okay. That was it.

1 Q. And what did you do with it after he  
2 said okay?

3 A. I don't remember if -- if I went into  
4 the system and put it in. I don't -- I remember  
5 typing it up and giving it to my attorney. Where  
6 it went from there, I don't remember.

7 Q. Yeah, that was my question, how did  
8 it get in as an official report in the  
9 Investigation 15-6691?

10 A. I don't remember if I got into the  
11 system and copied and pasted it in there type deal  
12 or if the attorney got it in there. I really  
13 don't even remember.

14 Q. And when was that that you finished  
15 the final version and turned it in to the  
16 sheriff's office?

17 A. Within a couple of days of the  
18 incident.

19 Q. Detective Kellar testified that you  
20 handed it to him at the time he met with you and  
21 your attorney on July 28th. Does that sound  
22 correct?

23 A. I don't remember a date, but that  
24 could be correct.

25 Q. And if you go back to the policy,

1 Exhibit 2, I'd ask you to look at the Section J on  
2 page 1607.

3 A. Did you say Section 2?

4 Q. Yes. Exhibit 2, page 1607. It's  
5 under the letter J.

6 A. Okay.

7 Q. Do you see that? In Number 2 it says  
8 after an employee uses any type of force, he  
9 completes a use of force report and submits it to  
10 his supervisor before the end of his watch. Did I  
11 read that correctly?

12 A. I'm still trying to find out where  
13 you -- okay. Yes, you are correct.

14 Q. And did you do that in the shooting  
15 of Dontae Martin?

16 A. No.

17 Q. Why not?

18 A. I was working at the direction of my  
19 attorney.

20 Q. And did your supervisor direct you to  
21 turn in a report before your end of shift on July  
22 23rd?

23 A. No.

24 Q. Did anyone from the sheriff's office  
25 direct you to comply with this policy and turn in

1 a written report by the end of shift?

2 A. No.

3 Q. Did you talk to anyone at the  
4 sheriff's office about when you would have your  
5 written report done?

6 A. No.

7 Q. How did this meeting on July 28th get  
8 set up with you and Detective Kellar?

9 A. Everything went through my attorney.

10 Q. Is your attorney still representing  
11 you in this matter, Mr. Sauter?

12 A. I would assume if it was to become a  
13 criminal issue again, they would, but I've not  
14 talked to them since the grand jury cleared us.

15 Q. And was he -- is he an FOP attorney  
16 or an attorney that you personally engaged?

17 A. FOP.

18 Q. Is he still with the FOP?

19 A. I have no idea.

20 Q. Did anyone from the sheriff's office  
21 ever ask you any questions about your statement  
22 other than Detective Kellar?

23 A. About my statement. Gosh. No.

24 Q. Anybody from internal interview you  
25 or ask you questions about what happened that

1 night?

2 A. No.

3 Q. Anybody from -- any of your  
4 supervisors up the chain of the command, did the  
5 sheriff ask you any questions about what happened  
6 that night?

7 A. The only thing outside of Detective  
8 Kellar questioning us was what they call a  
9 walkthrough, and it was a very limited  
10 description, and I cannot remember who did that  
11 with me. It was the night of the offense and it  
12 was very -- very, very brief but no details were  
13 given or anything of that nature.

14 (Thereupon, Plaintiff's Exhibit 11,  
15 Detective Isaiah Kellar's investigation, was  
16 previously marked for purposes of identification.)  
17 BY MS. BRANCH:

18 Q. If you could turn to Exhibit 11.  
19 That's the investigation report. You've not seen  
20 this before; is that your testimony?

21 A. Correct.

22 Q. Page 6858 is Detective Kellar's  
23 summary of the walkthrough with you.

24 A. Okay.

25 Q. Second full paragraph starts I also

1 asked Deputy Teague. Do you see that?

2 A. Yes.

3 Q. That paragraph, the second, third,  
4 and fourth paragraph after it summarize his  
5 account of the walkthrough.

6 A. Okay.

7 Q. I'm going to ask you to read those  
8 paragraphs silently to yourself and then just let  
9 me know when you're done.

10 A. Okay.

11 Q. Does that refresh your memory of the  
12 walkthrough with Detective Kellar?

13 A. It seems a little bit more detailed  
14 than I remember, but yes.

15 Q. Is his summary of what you told him  
16 accurate?

17 A. Yes.

18 Q. Anything you would want to change?

19 A. No.

20 Q. In the second paragraph that starts  
21 Deputy Teague said --

22 A. Okay.

23 Q. -- he writes Deputy Teague said he  
24 observed Martin raise the gun off his hip and then  
25 drop it back down. Deputy Teague stated Martin



1 then raised the firearm a second time and began  
2 pointing it at Deputy Haas. Deputy Teague said as  
3 Martin pointed the firearm toward Haas, he  
4 discharged his duty weapon at him. Did I read  
5 that correctly?

6 A. Yes.

7 Q. Next sentence reads, Deputy Teague  
8 told me after firing his duty weapon he retreated  
9 behind the vehicle for cover and then reapproached  
10 the passenger side door. Is that accurate?

11 A. Yes.

12 Q. So you did seek cover behind the  
13 Grand Prix?

14 A. Yes.

15 Q. And then when you came back to the  
16 driver's side -- the passenger side door you saw  
17 the gun lying beside the driver's right hip/leg  
18 area; is that right?

19 A. Yes.

20 Q. So in this statement you have Dontae  
21 Martin dropping the gun and then raising the gun  
22 and pointing it at Deputy Haas; is that right?

23 A. Yes, that's what Detective Kellar  
24 wrote.

25 Q. Do you know if that interview with

1 you was recorded?

2 A. I have no idea.

3 Q. Have you ever had walkthroughs  
4 before?

5 A. No.

6 Q. Ever since?

7 A. Well, let me rephrase the  
8 walkthrough. Yes, we've been on incidents where,  
9 you know, something has happened and we'll, you  
10 know -- like a sergeant will ask us what happened  
11 and we just give them a very quick synopsis, you  
12 know, we told the subject to do this, he failed to  
13 do this so we did that. So if you want to count  
14 that as a walkthrough, yes. But a walkthrough  
15 like this where it involved our firearm, no, I  
16 never had that before.

17 Q. In any time when you described what  
18 something happened to a superior or an  
19 investigator, were any of those recorded?

20 A. Not that I'm aware of.

21 MS. BRANCH: All right. I'm going to  
22 take a break while we get Exhibit 43 set up.  
23 That's the dispatch reporting. So it will take  
24 about five minutes.

25 (Pause in proceedings.)

1 BY MS. BRANCH:

2 Q. The written statement, do you have  
3 any of the drafts available on any computer  
4 device?

5 A. No.

6 Q. Or have access to them?

7 A. No.

8 Q. Do you know if your attorney still  
9 has the drafts?

10 A. I have no idea.

11 Q. Okay. You were placed on  
12 administrative leave after the shooting of Dontae  
13 Martin; is that correct?

14 A. Correct.

15 Q. And how long was that leave for?

16 A. I returned to work for a -- I think  
17 it was a day and a half sometime in October or  
18 November, I can't remember, and then put back on  
19 paid leave until I returned to full active duty,  
20 continuous to today, was -- I think it was January  
21 4th, 2016. Whatever that first Monday was in  
22 2016.

23 Q. And why were you on leave for so  
24 long?

25 A. There was just an absolute confusion,

1 miscommunications as far as how some of the  
2 processes were going. In order to get that  
3 information, you would have to speak with the  
4 sheriff about that.

5 Q. That's for the sheriff?

6 A. Yes.

7 Q. And do you know how long -- do you  
8 know why you came back for a day and a half in  
9 October?

10 A. Again, that goes to the confusion.  
11 Some form of miscommunications with doctors. The  
12 sheriff's office wanted to send us to a different  
13 doctor. There was some sort of a communications  
14 error in there. He brought us back and after a  
15 day and a half the sheriff met with the -- myself  
16 and Deputy Haas and put us back on paid leave  
17 pending another evaluation from a doctor.

18 Q. And have you had any other meetings  
19 with the sheriff other than that one regarding  
20 your leave or Dontae Martin or the shooting?

21 A. No, I just had one that I can  
22 remember.

23 Q. And did the sheriff ask you any  
24 questions about your actions or what happened?

25 A. No.

1 Q. It was just to talk about the leave?

2 A. Yes.

3 Q. And who did -- how many fitness for  
4 duty evaluations did you have?

5 A. I have no idea.

6 Q. More than one?

7 A. Oh, yes. Yes, ma'am.

8 Q. More than two?

9 A. Yes.

10 Q. Did Dr. Daum interview you for one of  
11 your fitness for duties?

12 A. He did the majority of the fitness  
13 for duty evaluations.

14 Q. And do you know what doctors did the  
15 other ones?

16 A. Dr. Daum did the initial ones. I do  
17 not know the doctor who did a -- he just did one  
18 evaluation up in Columbus. I don't know what his  
19 name was. And then Dr. Platoni did the remaining  
20 three.

21 Q. And can you spell that?

22 A. P L A T O N I, I believe. P L A.

23 Q. T O N I?

24 A. You're spelling it P A L.

25 It's P L A T O N I.

1 Q. And where is he based?

2 A. She is based in Centerville.

3 Q. And how many evaluations did she do?

4 A. Three.

5 Q. And what were they? They were all  
6 fitness for duty?

7 A. Yes.

8 Q. For you?

9 A. Yes.

10 Q. Were they all mental health based or  
11 physical or both?

12 A. It was all mental health based.

13 Q. Okay. And do you know why it took so  
14 long for you to be cleared to come back?

15 A. Through Dr. Platoni?

16 Q. Yes.

17 A. Dr. Platoni told me that she will not  
18 release somebody back to full duty until she met  
19 with them at least three times.

20 Q. Did she have any concerns?

21 A. No.

22 Q. Did any of your doctors recommend  
23 treatment --

24 A. No.

25 Q. -- or any conditions for your return

1 to work?

2 A. No.

3 Q. And do you know why three doctors  
4 were involved?

5 A. Dr. -- Dr. Daum, we had our initial  
6 request to go there. I don't know exactly what  
7 Deputy Haas did, but I went and saw Dr. Daum  
8 within I'd say a week or so of the shooting, spoke  
9 with him. He said he felt I could return to work  
10 immediately, however, he did not want me to return  
11 to work immediately due to the current climate in  
12 law enforcement and the fact that we were  
13 receiving death threats at the sheriff's office.  
14 We were not -- when I say we, I was not receiving  
15 a direct death threat. I was informed of death  
16 threats from -- Sergeant Hutchison informed me of  
17 some death threats that were heard through the  
18 grapevine while responding to calls. I don't know  
19 the specifics to those death threats. And  
20 Dr. Daum said that he would rather -- he would  
21 feel more comfortable leaving me off duty until a  
22 grand jury cleared me because he did not want, you  
23 know, to put me out there with death threats  
24 active, the current climate in law enforcement, et  
25 cetera.

1 Q. And did he ever clear you?

2 A. No.

3 Q. Did he refuse to clear you?

4 A. Yes.

5 Q. And then another doctor was found in  
6 Columbus?

7 A. Excuse me. I received a phone call  
8 from Julie Droessler telling me that she was not  
9 happy with Dr. Daum's activities and that she was  
10 sending me to Columbus for an evaluation.

11 Q. And who is Julie Droessler?

12 A. She is our personnel director.

13 Q. And how did it go -- when did you go  
14 see that doctor in Columbus?

15 A. That's the one that was in September,  
16 October. I don't remember an exact time frame.

17 Q. And what was the outcome of that  
18 evaluation?

19 A. Julie Droessler asked me to call and  
20 report to her my thoughts of the doctor up in  
21 Columbus. I didn't even leave the doctor's office  
22 and I called Julie Droessler and told her that  
23 this guy was completely out of his mind. I  
24 informed her that he fell asleep during the  
25 evaluation. It was an hour -- it was an hour-long



1 evaluation -- it was an hour-long evaluation and  
2 he probably slept forty minutes of it. And after  
3 the evaluation, he felt compelled to tell me that  
4 I was gaining weight and that I needed to hit the  
5 gym, that I was getting too fat, which I agree  
6 with but I don't need a doctor telling me that,  
7 especially a psychologist. And when I told her  
8 that, she sounded like she was appalled at the  
9 information that I relayed back to her and said  
10 that she would find me another doctor and would  
11 listen to what Deputy Haas had to say and hope  
12 that Deputy Haas didn't have to go through the  
13 same type of evaluation. I'm thinking it was  
14 another ten, fifteen days, somewhere in that area,  
15 she called and gave us a return to duty -- or gave  
16 me a return to duty date and told me that Deputy  
17 Haas was going to be returning to work as well.

18 Q. And then what happened to derail  
19 that?

20 A. I asked her what happened to the  
21 other doctor evaluation, and she said that the  
22 doctor in Columbus had reported that -- that I was  
23 clear to come back to work. And I questioned the  
24 liability issue as far as having one doctor  
25 clearing me, and that I, you know, put it on

1 record with her that I felt that it was very  
2 unprofessional in how he could give a true opinion  
3 by falling asleep forty minutes of an evaluation  
4 and I've got another doctor telling me that he  
5 would rather us stay off work until the grand jury  
6 had cleared us. And she, you know, informed me  
7 that if I didn't return to work on this day, that  
8 I was going to go off the payroll. So I returned  
9 to work that day and Deputy Haas returned to work  
10 that day and the two of us were assigned to court  
11 security. Some things occurred during the day and  
12 that's when we were called into the sheriff's  
13 office.

14 Q. The sheriff overruled her?

15 A. Yes.

16 Q. Did the sheriff ask you if you felt  
17 ready to come back to work?

18 A. Yes.

19 Q. And what did you say?

20 A. I told him that I felt ready.

21 Q. And why didn't he bring you back  
22 then?

23 A. Why?

24 Q. Why didn't he have you stay instead  
25 of putting you back on leave?

1           A.     I'm sorry. I'm getting confused.  
2 Why didn't he what?

3           Q.     Oh. I thought you said that --  
4 earlier that the sheriff put you back on leave  
5 until you could be evaluated by a third doctor.

6           A.     Yeah. This meeting that we are in is  
7 where he puts us back on leave.

8           Q.     Right. So why did he put you back on  
9 leave even though you were ready to return?

10          A.     Okay. Because I -- he asked me if I  
11 was ready to return. I told him yes, I felt I was  
12 ready to return. And he asked me if I -- what my  
13 thoughts were to stay at work because we had an  
14 issue in the jail that day escorting an inmate and  
15 there was a jail -- or a prisoner inside the jail  
16 who recognized my name and brought it up to  
17 several subjects inside there. He actually walked  
18 over to me, I watched him read my nameplate, and  
19 he looked over at a couple other people, called  
20 them out by name, I don't remember what their name  
21 was, and he said this is the motherfucker that  
22 killed Tae.

23                       So that made me uneasy being inside  
24 the jail knowing that people recognize my name and  
25 that I was involved in this incident. I reported

1 that to my supervisor, and I don't remember which  
2 sergeant it was, but then in turn the sergeant  
3 reported to somewhere, someone where it made it up  
4 the chain of command. That's when the sheriff  
5 requested us to come over there. And I told him  
6 that I felt I was ready to return to work. He  
7 asked if -- I don't remember exactly how the  
8 question was asked, but my response to him was I  
9 felt that there might be a little bit of a  
10 liability issue with me having a doctor that has  
11 cleared me that I've already reported to sleeping  
12 for forty minutes of an hour visit versus a doctor  
13 telling me I'm not clear to go back, and he sent  
14 me back to work. By the end of that day my  
15 sergeant informed me that the sheriff was putting  
16 us back on administrative leave and not to come to  
17 work tomorrow, to go ahead and go home.

18 Q. And then what happened to bring you  
19 back in January?

20 A. I don't remember exactly how we come  
21 across Dr. Platoni's name; but when I received a  
22 call that we were going to go to Dr. Platoni,  
23 she's supposed to be an expert in dealing with  
24 police officers and military personnel who have  
25 gone through traumatic experiences as such, that

1 they recommend that we went to Dr. Platoni.

2 Q. So I thought the grand jury cleared  
3 you sometime in November.

4 A. I don't remember the date.

5 Q. So was it after the grand jury had a  
6 no bill that Dr. Platoni was referred to you?

7 A. I don't remember the exact dates, but  
8 I know the visit with Dr. Platoni, we had three --  
9 I had three visits with Dr. Platoni. They were, I  
10 want to say, two weeks apart, each visit, so over  
11 a six week period -- six to eight week period, and  
12 I was -- I think my final visit with her was  
13 December 30th.

14 Q. Okay. And then you came back to work  
15 the next shift?

16 A. I was cleared December 30th and,  
17 yeah, I came back to work on January 4th. It was  
18 a Monday.

19 Q. Why is everybody smiling at you?

20 MS. DINEHART: Because he sighed a  
21 big breath.

22 THE WITNESS: Because this is my good  
23 side, I guess, I don't know.

24 BY MS. BRANCH:

25 Q. Have you seen any mental health

1 professionals other than these three doctors since  
2 the shooting?

3 A. No.

4 Q. Are you currently receiving any  
5 treatment for mental health issues?

6 A. No.

7 Q. Have you been involved in any use of  
8 force since you've returned to work that resulted  
9 in an injury to anyone?

10 A. The only use of force that resulted  
11 in an injury was an injury to myself, and that  
12 was -- yeah, just an injury to myself.

13 Q. How did you get injured?

14 A. Twisted my ankle.

15 Q. You were involved in two incidents  
16 involving a suspect who was shot within a six  
17 month period at the Montgomery County Sheriff's  
18 Office; is that right?

19 A. I don't know if it was within six  
20 months, but, yeah, close.

21 Q. Has that impacted your ability to do  
22 your job?

23 A. No.

24 Q. And why not?

25 MS. DINEHART: Objection.

1 THE WITNESS: Because it's not  
2 impacted my ability.

3 BY MS. BRANCH:

4 Q. Do you know why Officer Haas left  
5 Montgomery County?

6 A. No.

7 (Thereupon, Plaintiff's Exhibit 43,  
8 CD with audio recordings, was previously marked  
9 for purposes of identification.)

10 BY MS. BRANCH:

11 Q. I'm going to play for you the  
12 recording of the -- one of the dispatch logs we  
13 have.

14 A. Okay.

15 Q. It's Exhibit 43. So there are  
16 multiple recordings on here. The first one I'm  
17 going to play is number 6130237.

18 MS. JAGIELSKI: Jennifer, could you  
19 repeat that number for me, please?

20 MS. BRANCH: Yeah, 6130237.

21 MS. JAGIELSKI: Thank you.

22 BY MS. BRANCH:

23 Q. So what I'm going to do is I'm just  
24 going to play it through, just let you listen to  
25 it, and then you tell me how many times if you

1 need me to replay it.

2 A. Okay.

3 Q. Sometimes you have to listen to it a  
4 couple times to figure out what's going on. And  
5 then when you feel like you've understood it, I'm  
6 going to ask you questions about it.

7 So this is the one where dispatch is  
8 calling you out for the run. Well, maybe not.  
9 This says it doesn't have sound. Hang on.

10 (Thereupon, an audio recording was  
11 played.)

12 BY MS. BRANCH:

13 Q. All right. I'm going to play that  
14 again.

15 (Thereupon, an audio recording was  
16 played.)

17 BY MS. BRANCH:

18 Q. Were you able to understand that?

19 A. Yes.

20 Q. Bower, is that the street you were  
21 on?

22 A. No.

23 Q. Okay. I thought she was checking up  
24 on you at Bower Street. So the dispatcher is  
25 asking Harrison 121, which is Officer Haas, to



1 check and advise at Springbrook, two vehicles,  
2 green car and a Grand Prix with tinted windows, no  
3 one has gotten out yet. Is that the dispatch  
4 call?

5 A. Yes.

6 Q. Okay. And then she gave the time as  
7 0:44. Did you hear that?

8 A. Yes.

9 Q. Okay. The next call I'm going to  
10 do -- play is 6130266. This is, I think, about  
11 thirty seconds.

12 (Thereupon, an audio recording was  
13 played.)

14 BY MS. BRANCH:

15 Q. Have you heard that one before today?

16 A. Not that I remember, no.

17 Q. Did you have access to the dispatch  
18 back when you were writing your statement?

19 A. I don't think so.

20 Q. I can play it again -- I guess I did  
21 play it again. Was that your voice, we have one  
22 with a gun?

23 A. Yeah, it was my voice.

24 Q. And on this recording that was said  
25 at about one second in. I'll play it again.

1 (Thereupon, an audio recording was  
2 played.)

3 BY MS. BRANCH:

4 Q. It was about two seconds in you said  
5 we have one with a gun?

6 A. Yes.

7 Q. And then next we hear Sergeant -- or  
8 Officer Haas start to say Harrison 121, shots  
9 fired. So I'm just going to play it until we get  
10 there.

11 (Thereupon, an audio recording was  
12 played.)

13 BY MS. BRANCH:

14 Q. I'm going to interrupt. So she  
15 says -- she does the tone -- plays the tone and  
16 then says restriction and says 46. Does that  
17 alert everybody that there is a suspect with a  
18 gun?

19 MS. DINEHART: Objection.

20 THE WITNESS: I have to hear that  
21 again on 46.

22 BY MS. BRANCH:

23 Q. The 46 is the time code, right?

24 A. That would be my guess because I  
25 don't know of a Code 46 as far as it being --

1 Q. Oh, right. She's -- the tone is the  
2 signal to everybody that the line is -- the  
3 channel is restricted?

4 MS. DINEHART: Objection.

5 THE WITNESS: Okay.

6 BY MS. BRANCH:

7 Q. Is that right?

8 A. Let's just play it again.

9 Q. Sure. I'll go back to two seconds  
10 and play it again.

11 (Thereupon, an audio recording was  
12 played.)

13 BY MS. BRANCH:

14 Q. Restrictions?

15 A. What about it.

16 Q. Is that what she said?

17 A. Yes.

18 Q. That she was putting restrictions on  
19 the channel?

20 A. Yes.

21 Q. At 0:46?

22 A. Yes.

23 Q. And that was at twelve seconds. I  
24 don't know if you can see that on there.

25 A. Okay.

1 (Thereupon, an audio recording was  
2 played.)

3 BY MS. BRANCH:

4 Q. So did you hear Officer Haas say 21,  
5 shots and that's all he got out before somebody  
6 stepped on top of him?

7 A. Yes.

8 (Thereupon, an audio recording was  
9 played.)

10 BY MS. BRANCH:

11 Q. And he says 21, shots at fifteen  
12 seconds into the tape, this recording?

13 A. Okay.

14 Q. Is that correct? I don't know if you  
15 can see the time code down here (indicating).

16 A. Barely, but yes.

17 (Thereupon, an audio recording was  
18 played.)

19 BY MS. BRANCH:

20 Q. And that was Officer Haas when he  
21 says Harrison 121, you copy, shots fired, start  
22 the medic?

23 A. Yes.

24 (Thereupon, an audio recording was  
25 played.)

1 BY MS. BRANCH:

2 Q. So the dispatcher says at 0:46  
3 affirmative, shots fired, and then she asks  
4 officer or citizen, and Deputy Haas responds 121,  
5 shots fired, we just shot the suspect; is that  
6 right?

7 A. Yes.

8 Q. Did you hear your voice anywhere else  
9 on this recording other than the beginning where  
10 you say we have one with a gun?

11 A. No.

12 (Thereupon, an audio recording was  
13 played.)

14 BY MS. BRANCH:

15 Q. You hear the discussion between the  
16 dispatcher and somebody that sounds like he's at  
17 the bottom of a well?

18 A. Yes.

19 Q. Do you know whose voice that is?

20 A. Sergeant McLaughlin.

21 Q. And what is he saying there?

22 A. He's telling dispatch to have the  
23 medics come in from the east because we have the  
24 road blocked off.

25 Q. Okay. Does that refresh your memory

1 on whether Sergeant McLaughlin was on the scene  
2 before or after Dontae Martin was extracted from  
3 the vehicle?

4 A. I don't know if he was extracted from  
5 the vehicle yet at this time. I have no idea when  
6 he was extracted versus when Sergeant McLaughlin  
7 was talking on the radio.

8 Q. So at the time that the -- you're  
9 calling in one with a gun, how soon after Officer  
10 Haas said he has a gun did you let dispatch know?

11 A. How soon after Deputy Haas announced  
12 he had a gun did --

13 Q. Did you tell dispatch?

14 A. -- did I notify?

15 Q. Yes.

16 A. I don't know how long it was.

17 Q. Was that something that you did  
18 before -- did you notify dispatch that you had one  
19 with a gun before shots were fired?

20 A. Yes.

21 Q. Sometime after Deputy Haas told you  
22 but before shots were fired? Is the sequence  
23 correct for the reporting that you notified  
24 dispatch we have one with a gun before Deputy Haas  
25 said shots fired?

1           A.     Yes, I notified dispatch that we had  
2 a guy with a gun. Following that Deputy Haas and  
3 I shot Dontae.

4           Q.     Okay. And how soon after the shots  
5 were fired did Deputy Haas notify dispatch?

6           A.     I don't know.

7           Q.     Would it be common police practice  
8 that you would notify dispatch as soon as you were  
9 aware that a suspect had a gun?

10           MS. DINEHART: Objection.

11           THE WITNESS: When practical.

12 BY MS. BRANCH:

13           Q.     And would it be proper procedure to  
14 notify dispatch as soon as shots were fired?

15           MS. DINEHART: Objection.

16           THE WITNESS: When practical.

17 BY MS. BRANCH:

18           Q.     The difference in time between your  
19 notification and Deputy Haas' notification is  
20 fourteen seconds. Do you dispute that time gap  
21 between notifying dispatch about the gun and then  
22 notifying the dispatch about the shots fired?

23           A.     I didn't have a stopwatch out there,  
24 ma'am. I have no idea what the time frame was.

25           Q.     That's the time that's shown by

1 looking at the recording.

2 A. Yeah. I have no idea how dispatch  
3 works and their time stamps and how that stuff  
4 goes.

5 Q. So I've already taken the deposition  
6 of Sergeant Lewis who explained to me this  
7 recording.

8 A. Okay.

9 Q. Do you have any reason to dispute his  
10 explanation of how the recording is timed and what  
11 the sequencing is?

12 A. I have no reason to dispute or  
13 confirm what he said.

14 Q. Did you see the internal  
15 investigation into the shooting of Dontae Martin?

16 A. No.

17 Q. Anybody notify you from internal  
18 about the results of that?

19 A. The only thing I remember from  
20 internal is being told that they were going to  
21 utilize the criminal investigation for the  
22 internal. I don't remember results coming out or  
23 anything like that.

24 Q. At this point in time have you been  
25 cleared by Montgomery County?



1 A. I don't remember if I had been  
2 cleared or not by the sheriff's office.

3 Q. Do you think you're still under  
4 investigation by the sheriff's office?

5 A. I don't think I'm still under  
6 investigation, no.

7 Q. Has anybody at the sheriff's office  
8 told you you did anything improper during the  
9 shooting of Dontae Martin?

10 A. No.

11 Q. Or in the aftermath of the retrieving  
12 the gun, doing the paperwork, or anything like  
13 that?

14 A. No.

15 Q. Have any policies been changed in --  
16 the use of force policies and practices since the  
17 shooting of Dontae Martin regarding the use of  
18 deadly force?

19 MS. DINEHART: Objection.

20 THE WITNESS: No.

21 BY MS. BRANCH:

22 Q. Have you personally been retrained by  
23 anyone at the sheriff's office in the use of  
24 deadly force?

25 A. We're trained several times a year on

1 use of force.

2 Q. As a result of your actions in the  
3 shooting of Dontae Martin, have you received any  
4 training?

5 A. No.

6 Q. All right. I'm going to ask you some  
7 questions related to the interrogatories we sent  
8 you. So one of the interrogatories, number four,  
9 asked how many cartridges did you carry in your  
10 firearm at the time of the encounter, and I think  
11 you've testified today that it was fourteen; is  
12 that right?

13 A. No.

14 Q. How many cartridges did you carry in  
15 your firearm at the time?

16 A. If we're splitting hairs, I was  
17 carrying no cartridges. I was carrying a bullet.  
18 It's not until the bullet is used that it expels a  
19 cartridge.

20 Q. Okay. How many bullets were you  
21 carrying?

22 A. So I'm not sure what you're asking.

23 Q. How many bullets were you carrying?

24 A. In my firearm?

25 Q. Yes.

1 A. A total of fourteen.

2 Q. The next question, number five, asks,  
3 explain why you approached Dontae Martin's vehicle  
4 on July 23rd, 2015. Include in your response what  
5 you knew about the situation before you approached  
6 the vehicles and what facts you considered before  
7 approaching the vehicle, and your answer was to  
8 see the narrative which we marked today --

9 MS. DINEHART: 53.

10 BY MS. BRANCH:

11 Q. -- as Exhibit 53. So do you have  
12 anything to add to that answer other than Exhibit  
13 53?

14 A. No.

15 Q. Question six asks, explain how you  
16 and Deputy Teague approached Dontae Martin's  
17 vehicle on July 23rd, 2015. And the answer you  
18 gave to every one of the next questions that I'm  
19 going to ask is see Exhibit 53. Is there any  
20 other information regarding how you approached the  
21 vehicle other than what you have provided in  
22 Exhibit 53?

23 A. I am Deputy Teague.

24 Q. Right.

25 A. Your question was how you and Deputy

1 Teague.

2 Q. Yeah, so I'll read it as how you  
3 approached the vehicle. Is there anything else --  
4 do you have any explanation for how you approached  
5 Dontae Martin's vehicle on July 23rd other than  
6 what's in Exhibit 53?

7 A. No.

8 Q. Number seven is how much time elapsed  
9 from when you exited your vehicle until you took  
10 your first shot at Dontae Martin. The answer was  
11 see your narrative supplement, Exhibit 53.

12 A. Yes.

13 Q. Is there any other -- well, let me  
14 say it this way. Exhibit 53 didn't have any --  
15 your statement doesn't have any time frames in it;  
16 is that right?

17 A. Correct.

18 Q. Okay. So the testimony that you've  
19 given today in your deposition appears to be that  
20 only seconds elapsed from the time you exited your  
21 vehicle until you took the first shot at Dontae  
22 Martin; is that correct?

23 A. I have no idea how long it was from  
24 the time I exited my vehicle to the time I shot  
25 Dontae.

1 Q. If the audio recording is correct  
2 that you were notified and then you notified  
3 dispatch that Dontae Martin had a gun, we have one  
4 with a gun, and then fourteen seconds later  
5 dispatch was notified shots were fired, would you  
6 agree that it was fourteen seconds or less between  
7 the time you exited your vehicle and took your  
8 first shot at Dontae Martin?

9 MS. DINEHART: Objection.

10 THE WITNESS: I can't agree to that  
11 because I have no idea.

12 BY MS. BRANCH:

13 Q. Number eight asks, explain all facts  
14 and circumstances that you considered before you  
15 shot at Dontae Martin. Again, the answer was see  
16 your narrative supplement which we have as Exhibit  
17 53. Is there any other answer to that question?

18 A. No.

19 Q. I know you probably aren't familiar  
20 with the legal documents in the case but you filed  
21 what's called an answer to our complaint, it's  
22 your response to the complaint, and in your answer  
23 at paragraph eighteen you denied that Dontae  
24 Martin was unconscious, which is what we alleged  
25 in the complaint. Your answer for -- we asked you

1 to describe all the facts that support your claim  
2 that he was conscious during the incident, and  
3 your response was to see your narrative  
4 supplement, Exhibit 53. Do you have any  
5 additional response to that question?

6 A. No.

7 Q. Interrogatory number ten asks you to  
8 describe all the actions you took after you fired  
9 your last shot until you left the scene of the  
10 encounter. Please -- include in your response  
11 either the time you took each action or the order  
12 in which each action was taken. And again you say  
13 see your narrative supplement, which we have as  
14 Exhibit 53. 53 didn't really describe what  
15 happened after you shot Dontae Martin; is that  
16 right?

17 MS. DINEHART: Objection.

18 BY MS. BRANCH:

19 Q. Is there any additional statement  
20 that you have about your actions that you took  
21 after you shot Dontae Martin that you haven't  
22 already testified to in your deposition today?

23 A. No.

24 Q. We asked in interrogatory fifteen for  
25 your cell phone that you were carrying on July

1 23rd and July 24, 2015. Do you still have those  
2 cell phones?

3 A. No.

4 Q. Did you have a work-related cell  
5 phone?

6 A. No.

7 Q. Did you have a personal cell phone?

8 A. Yes.

9 Q. And is your personal cell phone with  
10 the same carrier today as you had in July of 2015?

11 A. No.

12 Q. Who was your carrier in July of '15?

13 A. I don't remember.

14 Q. Who is your current carrier?

15 A. Verizon.

16 Q. What other carriers have you had for  
17 your cell phone -- your personal cell phone?

18 A. Cincinnati Bell. I think AT&T.

19 Q. Any others in the last few years?

20 A. Sprint.

21 Q. Which one did you have prior to  
22 Verizon?

23 A. I have Verizon now so all of those  
24 would be prior to Verizon.

25 Q. Do you know which one in sequence?

1 A. No, I don't have a clue.

2 Q. Okay. And has your cell phone number  
3 been the same the whole time?

4 A. Huh-uh. No. It changed when I came  
5 to Verizon, I believe.

6 Q. Okay. So I'm not going to ask for  
7 your cell phone number on the record but I'll ask  
8 you to provide it to your attorney, your cell  
9 phone number that was your personal number back in  
10 July of 2015.

11 A. Okay. I'll see if I can find it.

12 Q. Do you know what it is?

13 A. No. That's what I said, I'll have to  
14 see if I can find it. I have no idea.

15 Q. Did you use a cell phone during the  
16 incident or after the incident with Dontae Martin?

17 MS. DINEHART: Objection. Can you  
18 give a better time frame than after the incident?

19 BY MS. BRANCH:

20 Q. Between July 23rd, 2015 and when you  
21 came back to duty.

22 A. Did I use a cell phone during that  
23 time?

24 Q. While you were on duty.

25 A. No, I never came back to duty from



1 the time of the incident to January 4th. That  
2 would -- you said July 23rd to January 4th?

3 Q. Yeah. So let me start with July  
4 23rd. Did you have your personal cell phone on  
5 you while you were at work that shift?

6 A. Yes.

7 Q. Okay. Was that cell phone able to  
8 access text messaging?

9 A. Yes.

10 Q. Internet?

11 A. Yes, I think so.

12 Q. What about e-mail?

13 A. I don't think I had e-mail through  
14 them, but I'm not a hundred percent sure.

15 Q. Did you have a personal e-mail  
16 account back in July of '15?

17 A. No. Yes, I had a personal e-mail  
18 account.

19 Q. Okay. And do you know that e-mail?  
20 I'm not going to ask for it on the record, but can  
21 you give that to your attorney, your e-mail  
22 address?

23 A. Okay.

24 Q. Do you know what it is to be able to  
25 give it to your attorney?

1           A.     Off the top of my head, no, but I can  
2 try to find out.

3           Q.     You can find out?

4           A.     Yeah.

5           Q.     Were you involved with any social  
6 media back in July of '15; Facebook, Instagram,  
7 Twitter?

8           A.     No.

9           Q.     Are you currently?

10          A.     Yes.

11          Q.     What is your privacy settings for  
12 your Facebook currently?

13          A.     I have no idea what they are.

14          Q.     Is it open to anyone to read?

15          A.     I don't think so, but I'm not a  
16 hundred percent sure.

17          Q.     And what name do you use for your  
18 Facebook page?

19          A.     It's a joint account with my wife.  
20 Mac --

21          Q.     I don't want to put it on the record.

22          A.     Okay.

23          Q.     You'll give it to your attorney and  
24 we can -- did you have your Facebook account back  
25 in 2015?

1 A. I don't think so.

2 Q. And what about any other social media  
3 in July of '15?

4 A. No.

5 Q. And how about any other recordings of  
6 communications you would have made back in let's  
7 say just July of 2015?

8 A. No, nothing.

9 Q. And what search of your records have  
10 you done to find those things, to see if you had  
11 any e-mails related to this incident or text  
12 messages or anything else in writing?

13 A. I don't understand what you're  
14 saying. Why would I search to see what I had?

15 Q. Well, because we asked for it in  
16 discovery.

17 A. You're asking me if I searched it?

18 Q. Right.

19 A. Why would I search?

20 Q. Because we asked you in discovery.

21 A. No, I have not searched for my own  
22 stuff. You're kind of confusing me there.

23 Q. Did you keep any notes, journals,  
24 diaries, calendars, anything in writing that would  
25 record what you did or what you said regarding the

1 shooting, the investigation of the shooting,  
2 anything that happened between July 23rd and when  
3 you came back to work?

4 A. No.

5 MS. BRANCH: Okay. I'm going to take  
6 maybe a five-minute break and just go through my  
7 notes and see if I've got anything left for you  
8 but we may be done.

9 (Pause in proceedings.)

10 MS. BRANCH: I have no further  
11 questions.

12 MS. DINEHART: We will read.

13 (Thereupon, the deposition was  
14 concluded at 4:01 p.m.)  
15  
16  
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25

1 I, GUST A. TEAGUE, do hereby certify that  
2 the foregoing is a true and accurate transcription  
3 of my testimony.

4

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Dated — — — — —

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25 Job: 181113KSB

1 STATE OF OHIO )

2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE

3 I, Kathy S. Wysong, a Notary  
4 Public within and for the State of Ohio, duly  
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the  
7 above-named GUST A. TEAGUE, was by me first duly  
8 sworn to testify the truth, the whole truth and  
9 nothing but the truth.

10 Said testimony was reduced to  
11 writing by me stenographically in the presence  
12 of the witness and thereafter reduced to  
13 typewriting.

14 I FURTHER CERTIFY that I am not a  
15 relative or Attorney of either party, in any  
16 manner interested in the event of this action,  
17 nor am I, or the court reporting firm with which  
18 I am affiliated, under a contract as defined in  
19 Civil Rule 28(D).

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25

1 IN WITNESS WHEREOF, I have hereunto set my  
2 hand and seal of office at Dayton, Ohio, on this  
3 15th day of November, 2018.

4  
5  
6 *Kathy S. Wyong*  
7 KATHY S. WYSONG, RPR  
8 NOTARY PUBLIC, STATE OF OHIO  
9 My commission expires 12-1-2018



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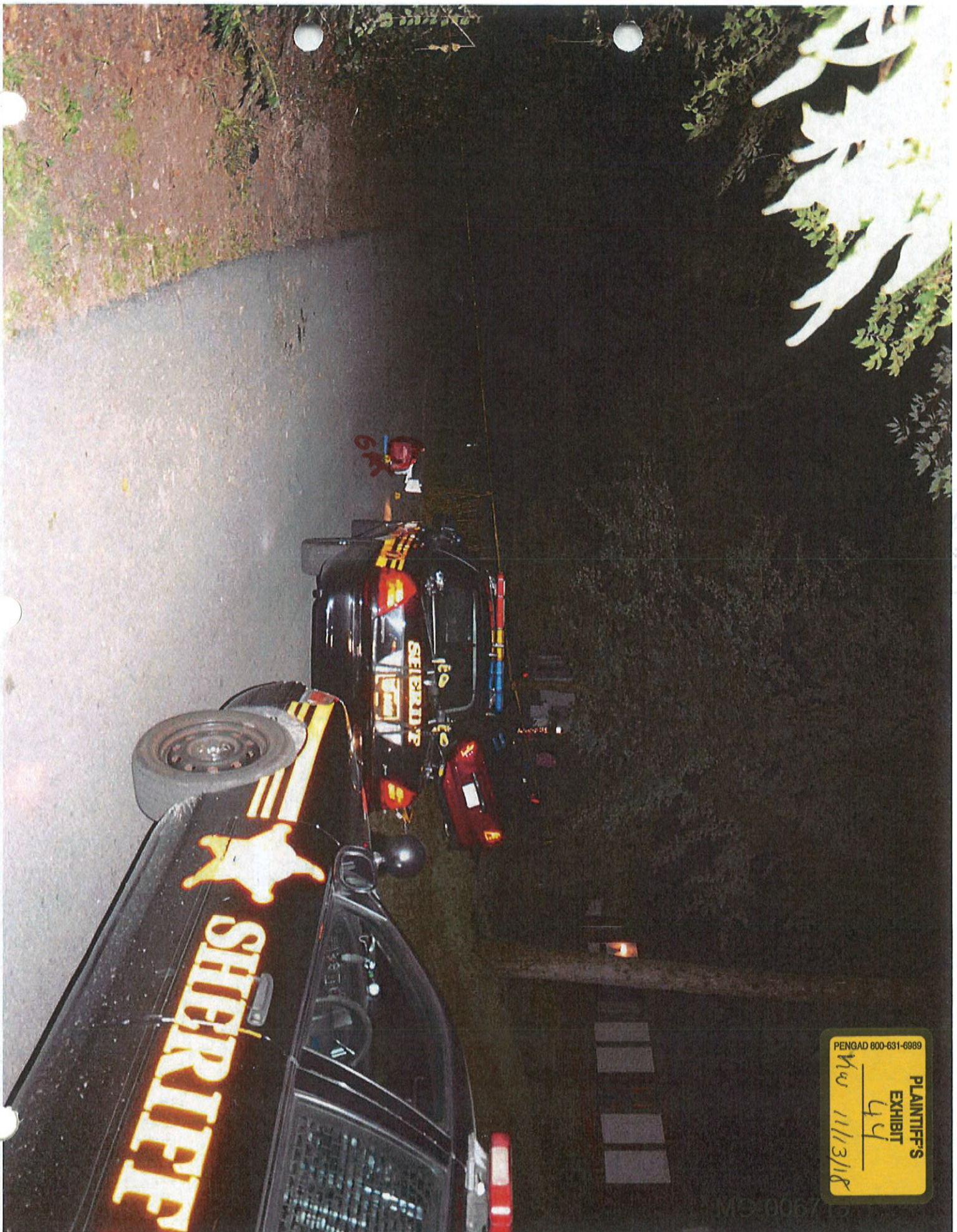
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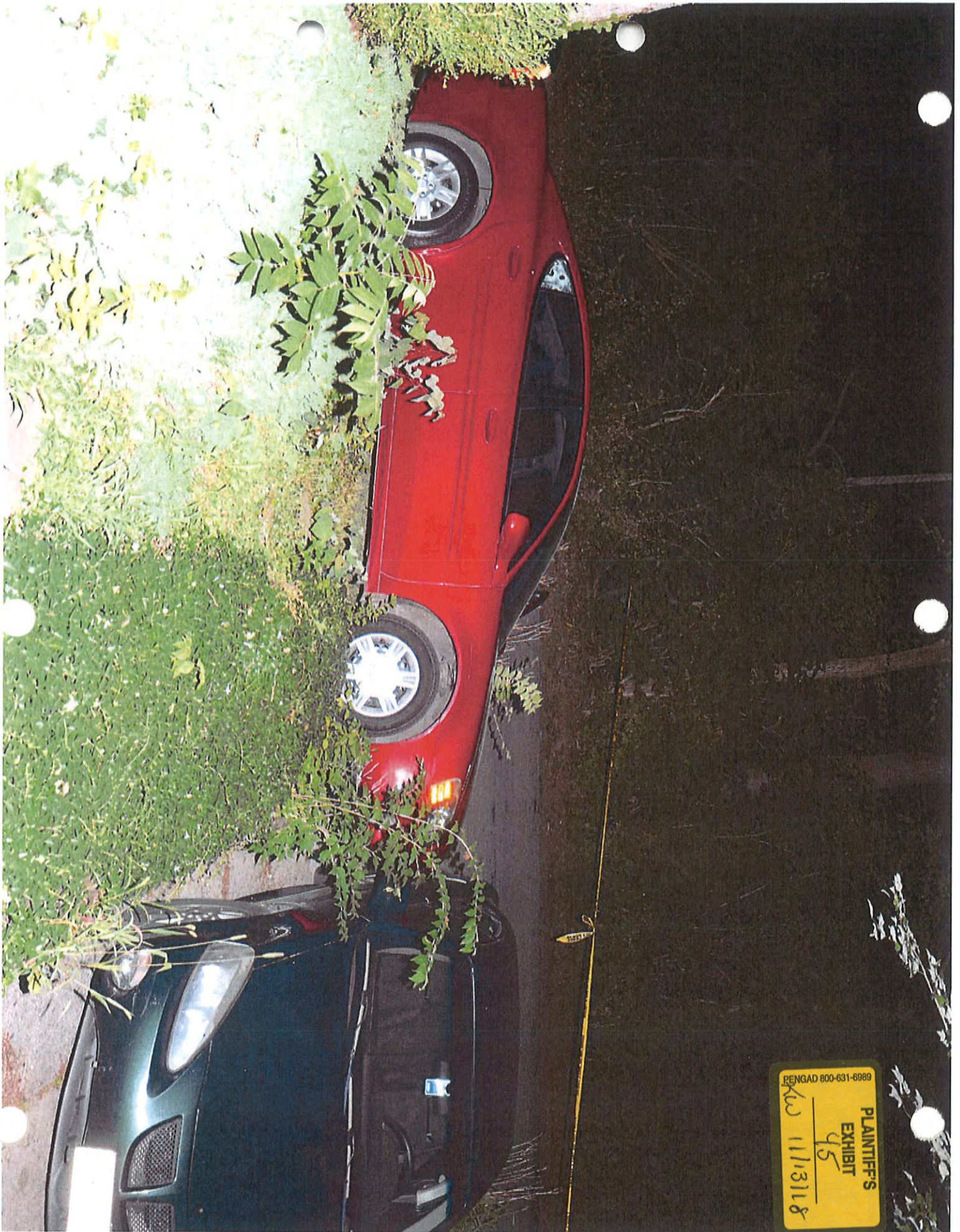


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# MONTGOMERY COUNTY SHERIFF'S OFFICE DEPUTY SHERIFF COMMISSION

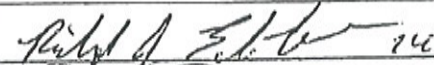

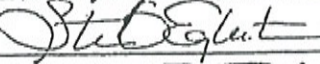
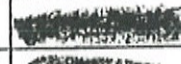
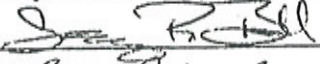

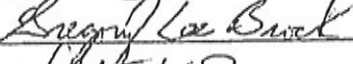
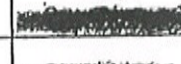

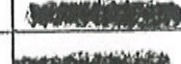

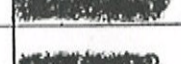
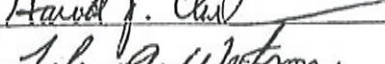
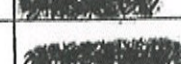
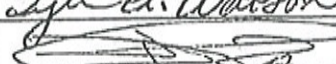

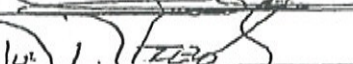
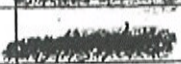
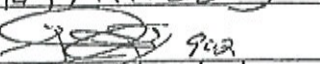
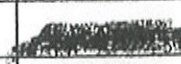






After the oath hereinafter taken, I, Phil Plummer, Sheriff of Montgomery County, Ohio, do hereby appoint the following persons as Deputy Sheriffs of Montgomery County, Ohio, pursuant to the authority vested in me by Section 311.04 of the Ohio Revised Code.

  
PHIL PLUMMER, SHERIFF

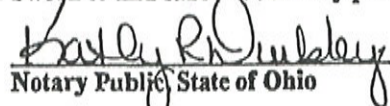
## OATH OF OFFICE

The State of Ohio, Montgomery County, ss.

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Ohio, and that I will faithfully discharge the duties of Deputy Sheriff of Montgomery County Ohio, during my continuance in office.

PRINT FULL NAME & PSN	SIGNATURE OF APPOINTEE	DOB
Richard Jeffrey Eckhart #146		
STEVEN GLENN EGLESTON #76		
Tony Ray Ball #432		
GREGORY LEE BROCK #72		
Walter Adam Bender SS		
BRIAN Scott Krimmer #498		
Harold James Clark #90		
TYLER ALAN WATSON #337		
JOSEPH PHILIP CAGG III #889		
BRYANT WADE FIELDS #385		
GUST ANDREW TEAGUE II #902		
GERARD JOSEPH FULWIDER #392		
RONALD THOMAS #57		

Sworn to and subscribed in my presence, this 15 day of July, 2008.

  
Notary Public, State of Ohio

My Commission Expires 12-10-12  
Recorded in Montgomery County



MC-001999

## USE OF FORCE POLICY

I, Deputy G. Teague Unit# 902  
Have read and understand the Montgomery County Sheriff's  
Office Policy regarding the use of force as outlined in the  
Montgomery County Sheriff's Office General Orders Manual,  
Section 1.1.3.

Trainee [Signature] 902 Date 04-14-06  
FTO [Signature] #355 Date 4-14-06



MC-002041



15-6691

Investigative No  
0015**MONTGOMERY COUNTY SHERIFF'S OFFICE****DRAFT**

330 W SECOND ST  
DAYTON, OHIO 45422

Phone  
(937) 225-4096  
Fax  
(937) 496-7975

Reported Date  
07/23/2015  
Nature of Call  
**DEAD**  
Officer

**TEAGUE, GUST A II****Administrative Information**

Agency <b>MONTGOMERY COUNTY SHERIFF'S OFFICE</b>				Report No <b>15-6691</b>	Investigative No <b>0015</b>	Reported Date <b>07/23/2015</b>	Reported Time <b>00:42</b>
CAD Call No <b>152040053</b>		Dispo <b>DEATH OF SUSPECT</b>		Nature of Call <b>DECEASED PERSON</b>			
Location <b>324 SPRINGBROOK BL</b>					City <b>HARRISON TOWNSHIP</b>		ZIP Code <b>45405</b>
Rep Dist <b>H1D</b>	Area <b>HA</b>	Beat <b>H11</b>	From Date <b>07/23/2015</b>	From Time <b>00:42</b>	Officer <b>902/TEAGUE, GUST A II</b>		
Assignment <b>ROAD PATROL</b>		Entered by <b>902</b>	Assignment <b>ROAD PATROL</b>		Approving Officer		Approval Date
Approval Time							

**Narrative**

On July 23, 2015 at approximately 0044 hours, Deputy J. Haas (723) and I were dispatched to 324 Springbrook Blvd., Harrison Township, for an auto accident. We were requested to check for injuries during the initial dispatch. I did not check my MDT in responding. Because of the nature of the call, the time of night and the closeness of our location in responding to the call, I did not respond with lights and siren. Without my lights being on, my dashcam was not activated.

I approached the scene at 324 Springbrook Blvd. from Dale View Avenue. I approached the accident scene from the west and could see a maroon Pontiac Grand Prix off the roadway with the tail lights on.

The Pontiac Grand Prix was in a front yard facing east and approximately 10 feet south of Springbrook Blvd. As I approached, I saw that all the doors to the Pontiac were closed and several people were standing east of the Pontiac.

Deputy J. Haas also approached the scene from Dale View Ave. His patrol vehicle was directly in front of mine as we arrived on scene. Deputy J. Haas parked his patrol car near the grass on the south side of the eastbound lane of Southbrook Blvd., approximately 10 feet west of the Pontiac Grand Prix. I parked my patrol vehicle approximately a car length behind Deputy J. Haas' patrol vehicle.

Deputy J. Haas and I exited our patrol vehicles. Deputy J. Haas approached the driver's side of the Pontiac Grand Prix as I approached the crash site. I yelled out to the people standing in the area to the east to ask if everyone was ok. At this point, Deputy Haas yelled out that he has a gun. I immediately notified Dispatch to give us the channel because we have one with a gun.

I yelled to the people in the area to get away and approached the Pontiac on the passenger side of the car. I pulled my Glock 22 service weapon and my Pelican flashlight from my gunbelt. My service weapon was in my right hand and my flashlight was in my left hand. I could not see the subject, later identified as Dontae Martin, inside the Pontiac until I was next to the car at the rear door on the passenger side and used my flashlight to illuminate the interior of the Pontiac.

I could see that Martin was the only occupant in the Pontiac. I illuminated the interior and could see a large black semi-automatic handgun on Martin's right thigh pointed forward to the east. Martin's right hand was also on his right thigh near the handgun. I began yelling at



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